

MORE FAMOUS TRIALS

BOOKS BY
THE EARL OF BIRKENHEAD

POINTS OF VIEW
AMERICA REVISITED
EPHESIAN
FAMOUS TRIALS OF HISTORY
LAW, LIFE AND LETTERS
MORE FAMOUS TRIALS

MORE FAMOUS TRIALS

By The
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ILLUSTRATED



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PREFACE

THE public which in a period of six months called for nine editions of the first series of *Famous Trials* must share with the author the responsibility for the second.

I hope that the present volume will, in its turn, find some friends.

The object which I have set myself is, of course, to entertain and not to instruct: but I think the series which follow will in the main be found historically accurate.

I am aware that the order of arrangement may appear a little whimsical, but, after all, the problems of psychology and pathology are unaffected by the passage of the centuries.

Birkenhead.

Charlton, 1928.

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MARIE ANTOINETTE

MARIE ANTOINETTE

"It is now sixteen or seventeen years since I saw the Queen of France, then the Dauphiness, at Versailles; and surely never lighted on this orb, which she hardly seemed to touch, a more delightful vision. I saw her just above the horizon, decorating and cheering the elevated sphere she just began to move in—glittering like the morning star, full of life and splendour and joy. Oh, what a revolution! and what a heart I must have, to contemplate without emotion that elevation and that fall! . . . Little did I dream that I should have lived to see such disasters fallen upon her in a nation of gallant men, in a nation of men of honour, and of cavaliers. I thought ten thousand swords must have leaped from their scabbards to avenge even a look that threatened her with insult—but the age of chivalry is gone."

When Burke wrote these lines the worst had not happened. He did not know then that Marie Antoinette would be hurled into a noisome cell, her husband and her child taken from her, and herself brought to trial and condemned to public execution. Since that day the French Revolution has faded into the mists and forgetfulness of a century; the Queen's fate has been obscured by a cult of veneration for the successful Revolution; and it is only in our own day that we have learned, from the not dissimilar fate of the late Empress of Russia, to understand the true horror of her fate.

History never exactly repeats itself. Yet the historian may trace a curious succession of similarities between the fates of Marie Antoinette of France and of Alexandra Feodorovna of Russia. Each came from a foreign land, and each in her time of suffering was reproached for her alien origin. The taunt of "the Austrian" was hurled against Marie; in the last months of her reign Alexandra was sneered at as "the German." The official life

of each began under the ill-omen of a public disaster; the marriage of the Dauphiness of France, like the coronation of the Empress of Russia, was darkened by a panic among the crowd who had gathered for the festivities, and by the loss of many lives. Each Queen, as she grew to power, knew her husband good-natured but weak, and easily led into error. Each waited long and eagerly for the birth of an heir who should reëstablish the dignity and glory of the throne. Each was thoughtless, perhaps haughty, making more enemies than friends. Each saw the tide of revolution rise above the steps of the throne; each thought to save her husband from the compromises which invited overthrow. Each saw the inevitable end approach; and at last each was foully slain, far from friends and hope of salvation, by a heartless mob which took revenge for defeat in the field by slaughtering its pitiable hostages.

There is no need to trace the parallel further. But, before I describe the trial of Marie Antoinette, it may be well to summarise the events which brought her to this plight.

Marie Antoinette was the daughter of Maria Teresa, Empress of Austria. Her mother designed her from infancy to be the wife of the Dauphin of France, the grandson of Louis XV. An innocent pawn in this diplomatic game, the child saw her name and her education gallicised, and when she came to France, in 1770, at the age of fourteen, she was as much French as Austrian. The journey to Paris was a triumph. Deputations, arches, welcomes of every kind greeted her. Four years after her marriage to her fifteen-year-old husband, the old King died, and Marie Antoinette became Queen. The story of her short and troubled reign need not be told here, except to say that by 1789 the financial position of France was desperate and the States-General had to be convened to save the situation. Louis's gradual acquiescence in the new régime, the growing discontent of the Revolutionaries, and the fall of the Bastille infinitely weakened the authority of the Court; its prestige declined through the affair of the Diamond Necklace and the scandal surrounding the production of Beaumarchais's comedy *The Marriage of Figaro*. Clouds gathered over

the noble Palace at Versailles, where the King and Queen had their residence. A last gleam of light shone through when, at the end of September, 1789, the officers of the Royal Bodyguard entertained the officers of the newly arrived Flanders Regiment and of the Versailles National Guard at a banquet in the Palace. Patriotic cries were raised; the officers sang a Royalist song:

O Richard, O mon roi,
L'univers t'abandonne . . .

Toasts were drunk; the white cockade of Royalty was thrust into the newcomers' hats, and the tricolour cockade thrown to the floor; the King and Queen walked round the horseshoe table with their infant son; and afterwards men climbed the walls to kiss Louis's hand as he stood on a balcony. One of them, too clumsy or too far gone in drink, sought to kill himself for his failure in this feat.

Whatever satisfaction this demonstration afforded the Queen, it infuriated the Revolutionary leaders. They led a procession from the Parisian slums down the long road to Versailles, and early one morning rioters broke into the Queen's apartments. She fled to the King's wing, while her guard was slaughtered at her door. This was her first contact with the Revolutionary mob. Lafayette, a sort of military Kerensky, recommended moderation and conciliation, and the King agreed to transfer his Court to Paris. Marie Antoinette, more far-sighted, begged him that, next time such a riot occurred, he would fly rather than place himself in his enemies' hands. He did not reply.

Fly they did, however, twenty months later, from the Tuileries, where their Court had become a mere mask for their captivity. They slipped out in disguise at midnight, and were driven by a few faithful friends along the high road towards Metz, where the Army of the East, still maintaining a semblance of discipline, might have protected them. Their plan was ill-laid, its execution muddled. A chance recognition, and the headlong pursuit of a Revolutionary postmaster named Drouet, caused its failure, and the royal party was brought back under escort to Paris. When

Marie Antoinette alighted from the carriage, it was seen that her auburn hair had turned white.

Although the King and Queen were prisoners, they were not yet deposed. Most of the popular representatives still shrank from the idea of a Republic. But everything went wrong. When a petition for the deposition of Louis was exposed for signature in the Champ de Mars and the National Guard was compelled to fire on the mob, its victims were acclaimed as martyrs of the royal tyranny. Then the Assembly decreed sentence of death and the confiscation of their property upon all nobles who had fled the country and refused to return; Louis, as was his right, vetoed this decree. A few weeks later the Assembly repeated its claim that every priest must abjure the authority of Rome and submit himself to the civil authorities; again Louis refused his consent. The Revolutionaries, to discredit the King and Marie Antoinette, demanded war with Austria. Louis dared not refuse, and himself proposed the declaration of war to the Assembly. The failure of the French troops destroyed the authority of the Assembly; the extremists took the lead and the royal apartments in the Tuileries were once more invaded. The Queen and her children took refuge in a corner of a room behind a large table; she was compelled to thrust a dirty red Revolutionary cap on the Dauphin's head, but her brave bearing and the King's passive courage saved them from hurt.

Worse followed. During the next month the Duke of Brunswick, heading the allied forces of Austria and Prussia against France, published a manifesto announcing his intention to restore the royal authority in France, and threatening "unforgettable vengeance" on the Assembly and Paris should Louis be harmed.

This blow was shrewdly parried by the Commune, which, to prevent a division of the Revolutionary forces, sought to inculcate them all in the guilt of the overthrow of the monarchy. It organised another assault upon the Tuileries. The King had perhaps six thousand men to guard him (so Napoleon, who witnessed the scene, estimated); probably the invaders were fewer. Among these, however, was the famous detachment of men from Mar-

seilles, five hundred strong, who had reached Paris, bringing with them the stirring song which has ever since been associated with their country. They forced the gates which led from the Place du Carrousel into the courtyard of the Palace. Napoleon said, long afterwards, that if the King had shown himself on horseback to his defenders the day would have been saved, and a "whiff of grapeshot" would have sufficed to disperse the mob. But Louis, with that fatal weakness which dogged his career, as a century later it destroyed the last of the Romanovs, sought a peaceful outcome. With the Queen, their children and the governesses, he made his way to the Assembly, and, as a pathetic gesture of unity with the new régime, put himself under its protection. The astonished demagogues crowded him and his party into the reporters' box, where they heard the boom of cannon and the roar of voices as the forces met in the courtyard of the Palace.

One of his ministers wrote out an order to cease fire, which the King signed; it was handed to the commander of his troops. The mob had conquered, and the monarchy was lost. The Assembly suspended Louis from his office as king, and the royal fugitives took refuge in the monastery of the Feuillants, the headquarters of the Girondins.

After three days of listening to the dull deliberations of the Assembly, they were transferred to the gloomy tower of the Temple. They were prisoners.

Just as the better side of Nicholas II and of his Empress was displayed in captivity, so now Louis and Marie Antoinette as day after day went by, gained the respect of their guards. They waited for release; their hopes lay in the armies of Austria and her allies. When the invaders took Verdun, the Revolutionaries, balked of success in the field, again sought revenge. They threatened the prisoners with death. The Queen's dearest friend, the Princess de Lamballe, was torn to pieces by the crowd, and, after unspeakable outrages, her head was thrust on a pike and held at the window of the fainting Queen. More than fourteen hundred aristocrats were massacred. By the end of the year Louis was tried and sentenced to death; a month later, in January, 1793,

he was guillotined in what is now called the Place de la Concorde.

Marie Antoinette's seven-year-old son, the Dauphin, was taken from her and brutally used. She was left in increasing misery and suspense with her daughter and the noble Princess Elizabeth, her sister-in-law. The assassination of the insane leper Marat and the failure of the Revolutionary armies again set the Parisians in search of victims; they decided to try the Queen. On 2nd August, 1793, she was ordered to leave her two companions and accompany her guards to the Conciergerie, a prison on one of the islands in the Seine. As she left the room, she struck her head against the door. Asked if she was hurt, she replied sadly, "Nothing can hurt me now."

In the Conciergerie she was imprisoned in a semi-subterranean cell, so fetid and damp that her dress rotted into rags. One of her eyes, long ailing, lost its sight. Her face grew thin and sunken; only the flush of fever made a red patch on her pale cheeks. She was deprived even of her needles; every insult was heaped on her. Yet even in this dreadful place she was so gentle that she won the hearts of all but the most degraded of her custodians. Sympathisers who sought her rescue found ready accomplices among her gaolers; but their plans were too clumsy to succeed.

In August, Fouquier-Tinville, the Public Prosecutor, wrote to the President of the National Convention, pointing out that the Press and the public complained of the delay in bringing the "former Queen" to trial, and demanded instructions. Immediate steps were taken. She was examined in secret by her accusers in regard to the charges which they proposed to bring against her. Her courage was still high. Asked whether she had not taught her husband to deceive the people, she replied, "The people was deceived, cruelly deceived. But not by my husband or by me." And again, in answer to the taunt that she had wished to reign no matter at what cost, and to re-ascend the throne over the dead bodies of patriots, she said, "We had no need to re-ascend the throne; we were seated upon it. We desired nothing but the good and happiness of France."

On 14th October her trial began, and she was led into the

Court above her cell. Broken, ill, half-blind as she was, her mien still retained something of its old majesty. She wore a simple black gown with a large white scarf tied beneath her chin, and on her head a white widow's cap with black crêpe under its lappets.

Her judges were four, headed by a certain Hermann. The jury was packed; it contained only known extremists, except for a mad surgeon named Souberbielle. Marie Antoinette was given two counsel to defend her, but they were warned of this task only overnight and had barely time to consult her before her agony began.

Hermann asked her formally her name, age, condition, birth-place, and her residence at the time of her arrest. She declared that she was Marie-Antoinette Lorraine of Austria, aged about thirty-eight (she was actually thirty-seven), the widow of the King of France, and born at Vienna; at the time of her arrest she was in the National Assembly. Fouquier read out a long accusation against her, in which the principal charges were that she had squandered "the finances of France, the fruit of the sweat of the people, to satisfy her immoderate pleasures and to pay the agents of her criminal intrigues"; that she had sent subsidies to the Emperor of Austria and, since the Revolution, had intrigued with counter-revolutionaries and foreign Powers against France; that she had authorised the anti-national incidents at the dinner of the Guards and the Flanders Regiment at Versailles; that she had brought about a famine in Paris; that she had planned "the horrible massacre of most zealous patriots" in the Champ de Mars; that she had inspired Louis to veto the decrees against the emigrants and the priests; and that *she had committed incest with her eight-year-old son.*

The Queen was given a chair, and it was observed that she, who in her childhood had played duets with Mozart, rested her hand on it and moved her fingers as if on the keyboard of a piano.

The first witness was called. He was a deputy who told a long, rambling story of events leading up to the Revolution, especially at Versailles. When he finished, Hermann asked Marie Antoinette for her reply. She said: "I have no knowledge of most

of the facts of which the witness speaks. It is true that I gave two standards to the National Guard at Versailles. It is true that we walked round the table on the day of the Guards' dinner. That is all."

Hermann, as Presiding Judge, such being the French custom, pressed the charges against her. Was she in the room when *O Richard, O mon roi*, was played? "I do not remember it," replied the Queen. Was she there when the toast of "The Nation" was proposed and rejected? "I do not think so." Did she not call upon the forces at Versailles to defend the royal prerogative? "I have nothing to reply." Had she not held secret councils before the Revolution to consider means of sending funds to the Austrian Emperor? "I have never been present at any secret council."

Question after question was put to her, to all of which she answered firmly and with discretion. Not one of her answers betrayed confusion of thought or manner, nor did she compromise a single friend. So it was to be throughout this trial.

A second witness deposed to the flight to Varennes. In his questions to the Queen, Hermann sought to make her disclose the name of a woman who assisted her flight. "I do not remember."

A third witness, who claimed to hold the fact from "a good citizeness and excellent patriot who was a servant at Versailles under the old régime"—such was the quality of evidence proffered!—deposed that many bottles, full and empty, were found under the Queen's bed after the Guards' dinner. The Queen replied that she knew nothing of this.

The next witness was Hébert, the infamous "Père Duchesne." He reported an examination in prison of the young Dauphin in which, he claimed, the latter gave a list of thirteen persons who brought his mother news in the Temple during her imprisonment, and also confessed to incestuous relations with her, to which he added other equally disgusting charges. Marie Antoinette, called upon to reply, said she could not remember anything about the people who were supposed to have assisted her.

Hébert added that he had forgotten something: after the

King's death the Queen and her sister-in-law had treated the little boy with royal deference, giving him precedence at table and seating him in the highest place.

"Did you see this?" interrupted Marie Antoinette.

"I never saw it," Hébert admitted, "but all the municipality will certify it."

One of the jury, more foul-minded than the others or more in league with Hébert, reminded Hermann that the Queen had made no reply to the charges brought against her in relation to her son.

Hermann told her to speak. Much moved, she cried, "If I did not reply, it is because nature refuses to answer such a charge brought against a mother. I appeal to all mothers who may be in this room."

It is said that this response called forth the sympathy of even the hardened wretches who had assembled to gloat over her sufferings. For a moment it seemed as if she might escape the flimsy net which had been cast about her, and gain her acquittal, or, at least, be sentenced only to exile and not to death. When Robespierre, her bitterest enemy, heard that day at dinner of the incident, he hurled his plate to the ground, exclaiming that the Queen had been saved by Hébert's stupidity.

Two more witnesses spoke of the flight to Verennes, not the least substantial of their accusations being that, on her return to the Tuileries, Marie Antoinette had "cast a most vindictive glance at the National Guard of her escort and at the other citizens within sight, which made me think at once that she would revenge herself; and, in fact, some time afterwards the affair in the Champ de Mars took place."

A dozen other witnesses gave evidence neither more nor less serious than this.

From eight in the morning until three o'clock the Queen was kept without rest or refreshment in the stuffy Court. Then she was taken to her cell for a short breathing-space, before being brought back to torture for another six hours.

When, at last, she was supported to her cell in the middle of

the night, she was heard to mutter: "I cannot see . . . I have come to the end."

Early next morning the cruel farce began again. One of the first witnesses was the Admiral D'Estaing. He had been no friend of hers in pre-Revolutionary days, but, in reply to a question about what he overheard in the Palace at Versailles before the mob's march from Paris, he said, "I heard some councillors tell the accused that the people of Paris were on their way there to massacre her, and that she must go away. She replied to this with great dignity, 'If the Parisians come here to assassinate me, they will find me at the feet of my husband; but I will not fly.'"

Marie Antoinette broke in to confirm this, and Hermann quickly turned the examination to other points.

After D'Estaing came Simon, the obscene cobbler who had been appointed guardian to the Dauphin. He declared that "the little Capet" had confessed to him the names of men who were helping the prisoners in the Temple; he deposed also that the child was treated with royal dignity by his mother and his aunt. He was asked no questions on the disgusting accusation made by Hébert: probably Robespierre had warned his fellow-extremists of the weakness of this line of attack.

There was a pathetic interlude when a packet, which Marie Antoinette had sealed when she was transferred from the Temple to the Conciergerie, was opened. The Clerk of the Court announced its contents:

"A packet of hairs of different colours."

"They are my children's, dead and living, and my husband's."

"Another packet of hair."

"The same."

"A paper with numbers on it."

"A table to teach my son to count by."

There was a respite that second afternoon for three quarters of an hour, during which one of the servants in the Conciergerie took her a cup of broth. As the maid entered the Court, one of the police officials snatched the soup from her and gave it to his mistress, in order, he explained, that the latter might have an

opportunity to inspect Marie Antoinette at close quarters. Half the soup was spilt by his roughness.

Latour du Pin, the ex-Minister of War, was called, and had the courage to bow low to the Queen. He defended her and himself against the charges brought against them, audaciously controverting the Judges' accusations. When his examination was ended (and his own fate thereby sealed) he again bowed to the prisoner, who was suddenly asked if it was not at the little Trianon where she had first met the woman Lamotte, the chief mover in the affair of the Diamond Necklace.

"I have never seen her."

"Was she not your victim in the affair of the famous Necklace?"

"She could not be, since I never knew her."

"You persist in denying that you knew her?"

"My intention is not merely to deny. I am telling the truth, and I shall persist to tell it."

In a later exchange Hermann told her that her statements were in contradiction with those of her son.

"It is so easy to make a child of eight say what is desired," was her scornful retort.

More and more witnesses were called, but none of them could prove the charges brought against the Queen. Her persecutors must have hoped that she would compromise herself by her answers, but even this satisfaction was denied them. Here are the last questions put to her, and her replies:

"Have you written to the Princes since their emigration?"

"Once or twice."

"Have you nothing more to add to your defence?"

"Yesterday I did not know the witnesses; I was unaware what they would depose against me. Well, no one has brought a single positive act against me. I end with the observation that I was but the wife of Louis XVI, and that it was my duty to conform to his wishes."

Fouquier addressed the Court again. He harangued violently against the conduct of the King's Court, alleging continual plots

against "the Liberty which displeased it and which it desired to destroy at all costs"; its attempts to provoke civil war with the Machiavellian plan of dividing to conquer; its criminal liaisons with foreign enemy Powers; its attempts to raise the provinces against Paris, "the mother and preserver of Liberty"; and its responsibility for blood-shed all over the country. Marie Antoinette, he shouted, was the declared enemy of the French people and one of the principal instigators of its recent trouble.

The Queen's two counsel were called upon. They defended her against the basic accusations, one answering the charges of conspiracy outside France, the other the charges of fomenting civil war. The first spoke for two hours. When he sat down the Queen said to him. "How tired you must be. I am very grateful for all your efforts." He was immediately arrested on the pretence that Marie Antoinette had given him a message to pass to her friends. Her other counsel, too, was taken into custody after his speech, and they were not permitted to speak to her again.

Hermann summed up—if the term may be used of his tirade—with a violent attack upon the Queen. He reiterated the unproved charges against her, declared them proved beyond doubt, and finally put four questions to the jury:

"(1). Is it proved that there existed plans and negotiations with foreign Powers and other external enemies of the Republic, tending to furnish them with aid in money, to give them an entrance into French territory, and to facilitate the progress of their arms there?

"(2). Is Marie Antoinette of Austria, widow of Louis Capet, proved to have coöperated in these plans, and to have entered into these communications?

"(3). Is it proved that there existed a plot and conspiracy to inflame civil war inside the Republic?

"(4). Is Marie Antoinette of Austria, the widow of Louis Capet, proved to have participated in this plot and conspiracy?"

It was now three o'clock in the morning. The weary prisoner was led out of the Court. The packed jury pretended to deliberate for an hour, then returned to the Court and declared that they found each of the four charges proved.

Hermann, affecting a judicial air, addressed the Assembly. "If," he said, "they were not free men who fill this chamber, and who, therefore, are conscious of all the dignity of their being, I should perhaps remind them that, at the moment when the national justice is about to pronounce the law, reason and morality command them to display the greatest calmness; that the law prohibits any sign of approbation; and that an individual once overtaken by the law, though guilty of no matter what crime, belongs now only to misfortune and humanity."

The Queen was brought back and Hermann told her that the jury had found her guilty. "Antoinette," he said, "this is the declaration of the jury." He read it, and Fouquier demanded the death penalty. Hermann asked if she had anything else to say. Whatever hopes she may have had—and she must have hoped, for she knew that none of the charges against her had been proved—she bore herself with courage, shaking her head in answer to Hermann's question. The latter pretended to consult his colleagues, and passed sentence of death.

Marie Antoinette was led to the condemned cell, where she called for pen and paper. She wrote a long, brave letter to her sister-in-law, the Princess Elizabeth:

It is to you, my dear sister, that I write my last letter. I have just been condemned, not to a shameful death, for it is only shameful for criminals, but to rejoin your brother. Being, like him, innocent, I hope to display the same firmness which he showed in his last moments. I am as calm as are those whose conscience is free from reproach; I regret profoundly that I must leave my children. You know that I have lived only for them. . . .

Let my son never forget his father's last words, which I expressly repeat to him: He must never seek to revenge our death. . . . I forgive all my enemies the evil they have done.

¹⁰ The letter ended with the words:

My good, loving sister, may this letter reach you ! Think of me always: I embrace you with my whole heart, and those poor dear children. Oh God, how heartbreaking it is to leave them forever ! Farewell, farewell !

and with the Queen's pious declaration that she would not accept the last consolations of religion from a forsworn priest. The writing was blurred with tears.

It never reached the woman to whom it was addressed. Fouquier came into possession of it; Robespierre, the "incorruptible," begged or stole it from him and concealed it, with other documents likely to be valuable, under his bed. At last, in 1816, after twenty-three years, a Revolutionary who had acquired it sought to win his pardon by disclosing it to the restored Bourbons. By that time the Princess was dead; and Marie Antoinette's daughter swooned when the yellow, tear-blotted relic was placed in her hands.

When she had ended her writing, the condemned Queen flung herself, weeping bitterly, upon the bed. Two hours later, at seven o'clock in the morning, the girl who cared for her in her last hours begged her, since she had eaten nothing for so long, to taste some soup she had kept warm for her. "My child, I need nothing more in this world. All is over," answered the Queen; but, when the girl brought the soup, she tried to please her by swallowing one or two spoonfuls.

She prepared herself for the end, changing her shift for a clean garment, half screened by the girl from a leering warder who refused to avert his eyes.

Soon Hermann and his jackals entered her cell and formally confirmed her sentence. Sanson, the executioner, followed and sought to bind her hands. "Why must you bind me?" asked the Queen. "The King's hands were not bound." But the man would take no denial.

Before he bound her, however, she cut off her white hair. Her

hands were tied and she was led to the tumbril which waited outside the prison to carry her to the scaffold. The crowd howled at her. An insane Revolutionary, mounted on a horse, shrieked insults, and waved a sword at her, but she sat silent, pale and erect, refusing to speak to the Constitutional priest whose cloth she would not recognise.

It is said that when, among the cruel, yelling mob, a little child in its mother's arms blew her a kiss, she flushed, and her weary eyes filled with tears.

For a moment her composure faltered when she saw the guillotine set up in the crowded square, but she conquered her weakness and firmly mounted the scaffold. She threw a last look at the Tuileries gardens. It was noon. One of the executioners tore her bonnet from her head and hurled her on the plank. A moment later Sanson exposed her severed head to the crowd.

There is little point in examining whether or not Marie Antoinette was "guilty." She hated the Revolution which had torn her husband and herself from the throne and flung them—and their country—into the hands of an insane mob. France, to her, represented not the Revolutionaries who tried her, but those forces who sought to destroy the Revolution and restore the monarchy. In this sense, then, she could not be guilty of treachery to France. But if, on the other hand, one considers the Revolutionaries as the representatives of France, and any acts undertaken against them as treachery to the nation, then it cannot be denied that she was guilty of some of the charges brought against her.

Marie Antoinette was sacrifice, as was the Empress Alexandra, a century and a quarter later, to the vengeance of cowardly fanatics, who sought by her death to terrorise her sympathisers, to revenge themselves for failure, and to inculcate the whole people in their own bloodthirsty crimes. The trial itself, as we have seen, would have been farcical were it not so tragic. The witnesses proved none of their charges; they merely repeated, as by rote, the vulgar gossip against an unhappy woman. Practically

all the matters to which repeated reference was made during the proceedings—the Guards' dinner at Versailles, for example; the alleged secret councils, and the horrible accusations of incest—were ignored by Hermann when he put his questions to the jury. The Queen's death had been decreed before ever she was brought into the Court.

Of her accusers, we note with pleasure, few survived her long. Hermann and two of the three other judges were guillotined by their fellow-Revolutionaries barely eighteen months after their royal victim. Fouquier met the same fate on the same day. The loathsome Hébert, Simon, and two of the jury preceded them to the scaffold.

CHARLES PEACE

CHARLES PEACE

FEW names in the annals of crime are better known to the public than that of Charles Peace, whose effigy was for so long a principal attraction in the Chamber of Horrors at Mme. Tussaud's exhibition of waxworks; though it is doubtful if many who familiarly refer to him as an arch-criminal could place the date of his trial within ten years. He was, in fact, tried for shooting at a Blackheath policeman with intent to murder in November, 1878, under the name of John Ward; the discovery that he was the man for whom the police had been searching for two years for the murder of Arthur Dyson, at Banner Cross, near Sheffield, led to a further trial in February, 1879. He was found guilty, and was hanged on 25th February, 1879.

What has made the name of Charles Peace so notorious was not merely the crime for which he was executed, but other curious incidents of his career. Another man was sentenced to death for a murder of which Peace was guilty, the latter being present in Court during the trial. He was able on many occasions to escape detection by amazing powers of disguise and consummate daring. His nature was a curious mixture of sordid villainy and artistic tastes. He really loved music, and when he broke into a house—a very frequent habit with him—he could not resist taking violins and other instruments among his booty. Mr. Sherlock Holmes was accurate in saying, as we are assured he once did, that “my old friend Charlie Peace was a violin virtuoso.”

It will be convenient to take the three principal trials in which Peace was concerned—though in the first he was not in the dock—in chronological order. The first was that of John and William Habron (or Hebron), at Manchester, in November, 1876, before Mr. Justice Lindley. The two brothers, aged twenty-three and

eighteen respectively, were charged with murdering Nicholas Cock, a policeman, at Whalley Range, near Manchester, on the night of 1st August. They were Irish labourers who were employed by a nurseryman in the neighbourhood and slept in an outhouse on his premises. In July, Cock had summoned them for being drunk and disorderly; William was fined on 27th July and the charge against John was dismissed on 1st August. That night Cock was going his rounds with another policeman when they saw a man loitering suspiciously near the gate of a house. The two constables separated to investigate, Cock following the man into the grounds of the house. The man doubled back, scaled a wall, and was jumping down from it when he was confronted by Cock. Two shots were fired, the policeman fell, and the stranger ran away. Cock died half an hour later.

The Habrons were at once suspected, for they had been heard to utter threats against the man who had been responsible for summoning them. Police went at once to the outhouses where they lived and finding them naked in bed, arrested them. A light had been shining through the window when the force arrived, but it was extinguished at the sound of their footsteps; this, for some reason, was supposed to point to the Habrons' guilt. Next day the police examined the scene of the crime and discovered a boot-mark in a patch of mud; they declared that it corresponded exactly with a boot worn by the elder brother, which was found to be covered with wet mud. Evidence was called also at the trial to prove that William had endeavoured on the afternoon of the murder to buy cartridges at an ironmonger's. Cock's companion at the scene of the crime deposed to seeing a man pass a few minutes before the shots were fired, whom he thought might be William Habron.

On the other hand, Cock said, before he died, that he did not know who had shot him. The defence was that the threats uttered by the prisoners—chiefly, it was pointed out, by the younger one—had been to “shunt,” not to “shoot,” the dead man. No weapon had been found either in their possession or in the neighbourhood of the crime. It was quite reasonable, in view of the weather,

that William's boots should be muddy; it was unlikely that the boot-mark in the mud was clear enough for absolute identification. As for the cartridge incident, the witnesses were by no means certain of Habron's identity, whereas there was other evidence that the men were working at the nursery at the time when one of them was alleged to be attempting to purchase the cartridges.

After two-and-a-half hours' retirement the jury found William Habron guilty—with a recommendation to mercy on account of his youth—and his brother not guilty. William was sentenced to death. It was, however, generally felt that the evidence was insufficient for conviction; a petition, signed by many local residents, was forwarded to London, and the Home Secretary reduced the sentence to one of life imprisonment.

Just over two years later Charles Peace, lying in prison at Leeds under sentence of death, sent for a clergyman and confessed to him that he had shot Cock. He had intended, he said, to break into the house, was observed by two policemen, and, endeavouring to escape, ran into Cock's arms. Peace fired wide the first time to frighten him, and straight the second. "I got away, which was all I wanted. Some time after I saw in the papers that certain men had been taken into custody for the murder of this policeman. That interested me. I thought I should like to attend the trial, and I determined to be present. I left Hull for Manchester, not telling my family where I had gone. I attended the Manchester Assizes for two days, and heard the youngest of the brothers, as I was told they were, sentenced to death. The sentence was afterwards reduced to penal servitude for life. Now, sir, some people will say I was a hardened wretch for allowing an innocent man to suffer for my crime. But what man would have done otherwise in my position? Could I have done otherwise, knowing, as I did, that I should certainly be hanged for the crime? But now that I am going to forfeit my own life, and feel that I have nothing to gain by further secrecy, I think it right, in the sight of God and man, to clear this young man, who is innocent of the crime."

Peace drew a map of the spot and described his movements with sufficient accuracy to make it evident that he was indeed guilty; so the Home Office decided, after a certain natural hesitation. William Habron was given a free pardon and an indemnity of £800. He ought never to have been convicted.

It is somewhat significant that Peace committed the murder for which he was eventually hanged on the very day after he had watched this innocent man sentenced to death for his other crime. Habron was sentenced on 28th November, 1876; on 29th November, at Banner Cross, in Sheffield, Charles Peace shot and killed Arthur Dyson, an engineer employed by the North-Eastern Railway. Evidence at the inquest showed that Peace and the Dysons had previously been neighbours at Darnall, a suburb of Sheffield. Peace had for some time pestered the Dysons with his advances. When he was forbidden the house, he uttered threats against the Dysons, for which a summons was taken out against him. He did not appear in court to answer it; a warrant was issued but he disappeared from the district. The Dysons moved from Darnall to Banner Cross, but Peace turned up there, shot Dyson dead, and escaped. The jury at the inquest returned a verdict of wilful murder against Peace. Hue and cry were raised, and £100 reward was offered for his apprehension. No trace of him, however, could be found. Two years elapsed, Peace had disappeared, Mrs. Dyson went to America, and the Banner Cross murder seemed destined never to be avenged.

Nor, indeed, would it have been but for a curious succession of incidents.

In the years 1877 and 1878 a respectable old gentleman lived in a respectable little house in a respectable street of a respectable London suburb. His name was Thompson, and his address East Terrace, Evelina Road, Peckham, S.E. With him lived his wife, Mrs. Thompson, a young and handsome woman with a certain failing for drink. Their housekeeper, Mrs. Ward, and her son, Willie, occupied the basement. The house was well, almost richly, furnished. Thompson was a popular member of the congregation of the parish church. He had the endearing trait of loving animals,

and kept many pets. Though he did not lack for money, he amused himself by assisting a neighbour in an invention designed to raise "sunken vessels by the displacement of water within them by air and gases." With this object they occasionally visited a pond in the neighbourhood to experiment on a toy yacht. They also wrote to the Admiralty offering to raise two vessels which had sunk; but their offer was rejected, as was a similar proposal to the German Government. Mr. Thompson, whose swarthy features suggested a tinge of negro blood, possessed a considerable collection of violins, guitars, concertinas, and other musical instruments, and it was his pleasure to exhibit his skill on them to a few favoured acquaintances.

But the oddest thing about this household was that Thompson was Charles Peace. "Mrs. Thompson" was a young woman with whom he had first become friendly in Nottingham; while "Mrs. Ward," the housekeeper, and her son were Peace's wife and stepson. And "Thompson's" unlaborious employment with his neighbour did not prevent his spending a great part of the night in robbing suitable houses in the neighbourhood.

It was during such an escapade that he was arrested. One October evening in 1878, "Mr. and Mrs. Thompson," and "Mrs. Ward" spent a musical evening, he playing the violin, they singing and accompanying him on the harmonium. The women went to bed and Peace, as we may now call him, crept out and broke into a house at Blackheath. Two policemen happened to see a light moving in the house at two in the morning, called a sergeant, and kept the place under observation. Shortly afterwards a man came out and walked down the garden, where one of the policemen, named Robinson, was concealed. When he saw Robinson he fired two shots, both of which missed, shouting with an oath, "Keep back, keep back, or I'll shoot you!" Robinson, however, closed with him; three more shots were fired, one of which entered the policeman's head and another his arm; fortunately they did not prove fatal. The other constable and the sergeant rushed up and overpowered the burglar, whose revolver was strapped to his wrist.

At the police station he gave his name as John Ward and his age as sixty. A set of housebreaking tools was found in his pocket, as well as a pocket-knife which had been stolen in another local burglary a few months before. He appeared on remand on 18th October, 1878. He engaged a solicitor to represent him and, after formal evidence had been given, he was remanded for a week, then for another week, and finally committed for trial at the Old Bailey. But while he was waiting for his trial "Ward" wrote to "Thompson's" neighbour, the inventor, and begged him to visit an unfortunate man who, through the sin of drunkenness, found himself in a regrettable situation. The neighbour, mystified by this letter and not in the least connecting it with the disappearance of his friend, arrived, and discovered to his amazement that "Ward" and "Thompson" were identical. He communicated his discovery to the police, who hastened to communicate with the already alarmed Thompson menage. "Mrs. Ward" and her son had run away with some of the plunder, but "Mrs. Thompson" revealed the astounding fact that their prisoner was Charles Peace, who was wanted for the Banner Cross murder.

On 19th November "John Ward, alias Charles Peace, aged sixty," appeared before Mr. Justice Hawkins for his Blackheath offence. Sir Harry Poland led for the prosecution; Peace was represented by two counsel.

During the hearing of the case Peace played the part of an unfortunate old man with whom fate had dealt hardly. He had given his age as sixty, and looked it; but he was actually fourteen years younger. When the jury found him guilty and he was asked by the Judge if he had anything to say, he made a long and miserable plea for mercy "in a whining tone, with tears in his eyes, and almost grovelling on the floor." He declared that he did not know the pistol was loaded, that he had only meant to frighten the policeman, not to hurt him, and that the shots which had wounded him had been accidentally discharged during the struggle. "Oh, my lord, I know I am bad and base to the uttermost, but I know at the same time they have painted my case blacker than it really is. . . . So, oh, my lord, have mercy upon me, I pray

and beseech you," is a specimen of the appeal which, with many protestations of piety and repentance, he made to the utterly unresponsive Judge. Peace was sentenced to penal servitude for life, and removed to Pentonville Prison.

The discovery, now made, of the prisoner's true identity revived the Banner Cross case. Mrs. Dyson was sent for, and arrived at Queenstown from America early in January. Ten days later Peace was taken to Sheffield and charged before the magistrates with the murder of Arthur Dyson two years before. Mrs. Dyson gave the principal evidence, for she had been the only eyewitness of the crime. Peace frequently interrupted her and the other witnesses, charging them with perjury. He complained also that the reporters in Court were sketching him. The trial was adjourned until the following Wednesday, the prisoner being taken back to London in the interval.

On the return to Sheffield on this Wednesday morning in the charge of two warders, Peace made a desperate attempt to escape from the train. It was moving at the rate of nearly fifty miles an hour, but Peace, an agile little man, flung himself through the window. One of the warders succeeded in grasping his boot; the other pulled the alarm signal. Peace hung out of the window for some moments, struggling; then he wriggled free of his boot and fell on his head in the snow by the side of the track. There he was found unconscious and bleeding when the train stopped.

As he was, or professed to be, too ill to go into Court, his examination was resumed in the passage outside his cell in the police station at Sheffield; he was carried in, bandaged and wrapped in rugs, and placed in an armchair. To what extent his pain was real cannot be known. Despite his apparent feebleness, he loudly declared that he had "lots of witnesses who can prove that that base, bad woman has threatened my life, and has threatened her husband's life. But I can't talk to you, I am so bad. I feel very bad, but she has threatened to take my life often. . . . She has threatened her husband's, and she has pointed pistols and things at me. He has threatened hers as well." He was also able at the end of the inquiry to instruct his solicitors in firm and decided

tones, which suggests that he had again been exercising his undoubted skill as an actor.

He was lodged in Wakefield and Leeds jails pending the trial. From the former he wrote to "Mrs. Thompson" to sell some of his goods and engage a barrister who would "save me from the perjury of that villainous woman, Mrs. Dyson." He did not know that "Mrs. Thompson" had given him away to the police, for which she was afterwards to claim the £100 reward. His neighbour, the inventor, is also said to have claimed the reward. Peace wrote also to his real wife, as from her "affectionate and unhappy husband."

On 4th February, 1879, Peace was at last brought to trial for the murder of Arthur Dyson. The Judge was Mr. Justice Lopes, who afterwards became Lord Ludlow. Peace, who was represented by Mr. Frank Lockwood and Mr. Stuart Wortley, pleaded not guilty. The prosecuting counsel described the crime. The Dysons and the Peaces lived next door but one to each other in a row of workmen's cottages at Darnall. Peace's apparent occupation was picture-framing, and the Dysons employed him to frame two or three small pictures for them. After a while Peace came to treat their house as his own, walking in at all times, whereupon Dyson wrote on a card, "Charles Peace is requested not to interfere with my family," and threw it into Peace's garden. Peace later in the same day tried to trip up Dyson in the street, and producing a revolver, threatened to kill both him and his wife. They took out a summons and he disappeared; to make themselves doubly safe from his attentions, they moved six miles away to Banner Cross. But when they arrived in sight of their new home, in front of which the furniture van was being unloaded, they saw Peace coming out of the house. He reiterated his intention to annoy them, but for a month they saw nothing more of him. In the evening of 29th November he reappeared, with a packet of letters and photographs which, he assured such of the Dysons' new neighbours as he could induce to listen, would show them the sort of people the Dysons were.

He loitered outside their house until Mrs. Dyson went down

the yard, where he followed her. He pointed a revolver; she screamed, and her husband ran out of the house into the yard. Peace fired at him, and he fell. The prisoner then scaled a wall and escaped.

Mrs. Dyson was once again the principal witness. She repeated fairly exactly the evidence she had given at the inquest two years before and at the inquiry. The prisoner's counsel cross-examined her to suggest that her husband, who was an extremely tall and powerful man, attacked Peace in an access of jealousy, and that the revolver was accidentally discharged during the struggle. This she denied. Her acquaintance with Peace, however, proved to be rather more intimate than had hitherto been supposed. They had visited Sheffield Fair together, been photographed together, and visited a public house together. He had given her a ring. A number of letters were produced which, Peace claimed, were written by her to him. If genuine, these suggested that they were accustomed to meet in the garret of an empty house between their dwellings at Darnall. One of the letters thanked him for a ring, and Mrs. Dyson had admitted receiving a ring from Peace. But she swore that the letters were not written by her.

Whether they were or not was, of course, not directly material in determining Peace's innocence or guilt of the murder of her husband. But her reliability as a witness was material, for she alone had seen what happened at the shooting. During Mr. Lockwood's speech to the jury the prisoner interjected occasional comments, such as "Hear, hear," and "I am not fit to die." But there was no hope for him; the jury immediately brought in a verdict of guilty, and the Judge passed sentence of death.

While he was awaiting execution, Peace sent for a Darnall clergyman and confessed his share in the Whalley Range murder for which John Habron had been sentenced. At the same time he gave his account of the death of Dyson. Peace said he was standing on a wall at the back of the house, watching Mrs. Dyson, who had been his mistress, through a window; she was putting her little boy to bed. He whistled to her—a signal to which she was accustomed—and she came down. Peace wanted her to induce

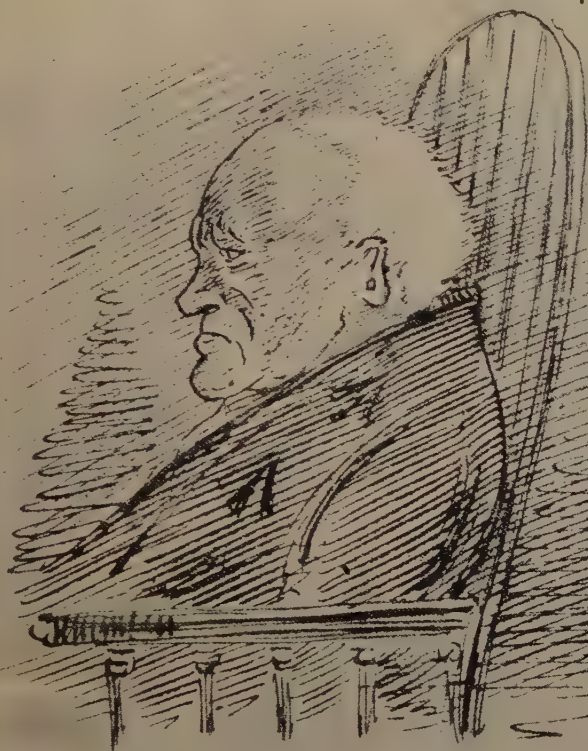
her husband to withdraw the warrant which had been issued against him, but she became abusive and an altercation followed. Dyson heard the noise, came out and seized Peace. The latter fired his revolver (which, as usual, was strapped to his wrist) in the air to frighten him; then, as this had no effect, he fired again, wishing to disable not to kill him.

The chief interest of the career of Charles Peace does not lie in the sordid crimes for which he eventually paid the penalty. His complex personality and his remarkable powers of disguise single him out from the general run of murderers.

He was born about 1832 in Sheffield, his father being a wild-beast tamer employed by Wombwell's menagerie. The latter transmitted to his son an interest in animals and a love of music. But music did not exercise a restraining influence on the boy, who was always brutal and unruly. At an early age Charles, employed in a mill, injured his leg and his left hand in an accident. He never did any more honest work. Permanently lame, and with a maimed hand, he devoted himself to a life of crime.

Although his injuries should have made him conspicuous, he contrived to conceal his hand under his coat and to wear a false arm in his sleeve, terminating with a hook. He boasted, with reason, that he could walk past detectives who were searching for him without any danger of recognition. They only looked, he said, at one's face, and he had an abnormal power to protrude his lower jaw and to suffuse his face with blood, thus altering his whole appearance and taking on the likeness of a mulatto. So confident was he of his powers of disguise that, he claimed, he visited Scotland Yard to read the descriptive notices offering a reward for his apprehension. He later used walnut juice to effect a permanent change in his appearance.

He was one of the first "cat burglars," who were known in those days as "portico thieves." In the intervals of his burglaries and occasional minor terms of imprisonment, and also, no doubt, as a means of watching likely premises, Peace became an itinerant musician. He described himself modestly as "The Modern Paganini" and "The Great Ethiopian Musician," and sang songs of



Charles Peace, as
he appeared sitting in
the dock, when I defended
him for murder in 1879.
F.L.

CHARLES PEACE

From a sketch made in court by his counsel, the late Sir Frank Lockwood. (Reproduced from a picture supplied by Rev. N. Kynaston Gaskell.)

his own composition to the accompaniment of a one-stringed fiddle of his own making. He also recited; Sir Archibald Bodkin, as a schoolboy at Highgate, was one of a juvenile audience who heard him declaim the grave scene from Hamlet.

Peace's professions of piety lasted to the end. He wrote to various members of his family assuring them of his repentance and enclosing specimens of prayers he had composed. And to his wife he sent a funeral card as follows:

In
Memory
of
CHARLES PEACE
who was executed in
Armley Prison,
Tuesday, February 25th,
1879. Aged 47.

*For that I don but never
intended.*

There must have been some slight particle of goodness in the man, for, as he was being taken to the scaffold and was permitted to address a group of reporters, his last words were a hope that no one would taunt or jeer at his wife and children on his account "but will have mercy upon them."

A more curious and complicated personality than that of Charles Peace can rarely have existed.

JOAN OF ARC

JOAN OF ARC

FIVE hundred years ago the throne of France was claimed by two kings, the one French, the other half English and half French. The first candidate was Charles VII, sometimes known as the Dauphin, the son of the mad Charles VI of France and his Bavarian queen, Ysabeau. The second was the Dauphin's nephew, the infant Henry VI of England, whose mother, Catherine of Valois, was the mad king's daughter. Each had a good case. The Dauphin relied on his natural right to succeed his father on the throne, whereas Henry's claim was based on the Treaty of Troyes of 1420, whereby his father, Henry V, was declared King of France and England, with the two kingdoms united under a single crown. Queen Ysabeau favoured the English claimant and did not scruple to declare her son a bastard; her morals were notably lax, but it seems most probable that the Dauphin was really her husband's son. Whether he was so in fact or not, however, he was indisputably so in law.

The two most powerful men in France were the Duke of Orleans and the Duke of Burgundy. Bitter enemies, their power extended over the South and North of France respectively. The Duke of Orleans was a prisoner in England, but all his influence was still thrown on the side of the Dauphin. The Burgundians were the allies of the English. English and Burgundian troops under the Duke of Bedford, Henry's Regent in France, and the Duke of Burgundy were temporarily victorious; they occupied the north and east of the country; Paris was in their hands; its University and Parliament acknowledged Henry as rightful king and even Orleans, the last important stronghold faithful to the Dauphin, was besieged. Although Charles VII had formally declared himself King on his father's death, he was unable to receive

the usual unction in the cathedral at Rheims, which was in the hands of his enemies.

It was in this gloomy hour for the fortunes of France that an extraordinary figure appeared who was to a later generation to represent the incarnation of French patriotism. She was Joan of Arc, a village maid, who in a few short months turned the tide of battle; rallied the Dauphin's disheartened forces; set him on the high road to victory; ruined the English cause in France; and perished at the stake.

Jeannette d'Arc—otherwise Joan of Arc—was the daughter of a small but locally important farmer of Domremy, a Lorraine village on the left bank of the Meuse, seven miles from Neuf-château. She was born on 6th January, 1411, or in the following year—she did not know which. She worked in the fields and in the farmhouse like the other hardy peasant girls of the village; at her trial she boasted that she could embroider as well as any matron of Rouen. She could neither read nor write, but she prayed much and delighted to listen to stories of the saints. Her village, standing on a high road, was peculiarly liable to attack by marauding troops, who cared little whether they plundered friend or enemy. The people of Domremy were sympathetic to the Dauphin's cause, but neighbouring villages were for the Burgundians. Joan was brought up in the midst of alarms and in the atmosphere of war, facts which help to explain her later career.

One summer noon she was working in her father's garden, a thirteen-year-old child, when she saw (or thought she saw) a great light on the right of her, in the direction of the church, and heard a loud voice saying, "I come from God to aid you to live a good and holy life. Be good, Jeannette, and God will help you." Soon the same voice and the same light appeared to her again. The third time this happened Joan saw that Saint Michael, the patron saint of the district, was speaking to her. He now came to her frequently. Sometimes the pealing of the church bell would be the signal for his appearance; sometimes Joan invoked him in prayer. He brought with him St. Catherine and St. Margaret, who also became her constant advisers. She vowed to them to

remain a virgin. It was well known in the Middle Ages that a virgin might be especially blessed with divine inspiration, whereas no woman who allied herself with diabolical forces could remain one. Joan told nobody, not even her confessor, of her marvellous Voices.

One day these declared her destiny to her: "Daughter of God, leave your village and go to France," And again, "You shall lead the Dauphin to Rheims, that he may there be anointed King." Then the Voices told her to ask Robert de Baudricourt, the chief noble of the neighbourhood, for an escort to conduct her to the Dauphin. She went to see him, but he was unimpressed, and advised the man who introduced her to box her ears and take her home to her father. So she returned to Domremy.

Her father did not know—or knew little—of her Voices, but he knew of her visit to Robert, and, dreaming one night that she had fled from home with soldiers, he declared that, rather than this should happen, he or his sons would drown her in the river. But soon all of them had to flee, for war swept down again on Domremy and the villagers took refuge in Neufchâteau. During this period Joan was indicted by a young man for breach of promise of marriage. The case was never judged. Either he died during the hearing or he abandoned the process. We have no record of this trial; indeed, we know of it only from the fairly full account of Joan's life which was produced at her later trial at Rouen.

When the villagers returned, they found Domremy plundered and burnt by the troops. Joan's Voices grew more insistent in their commands to succour the Dauphin. One may conjecture that her father's spirit was weakened by the misfortunes which had recently overcome him and that he was no longer able to restrain her. She went again to Robert de Baudricourt and told him that she held a divine command to raise the siege of Orleans and to lead Charles to Rheims.

It must be understood that Joan was neither the first nor the last of the claimants of divine inspiration who came forward to succour the Dauphin. Voices were heard by other men and women. These, too, uttered prophecies and rose to prominence in a credu-

lous Court; but Joan alone fulfilled a high destiny. Her Voices aimed higher than her rivals', and her purity and strength of character far exceeded theirs.

Robert de Baudricourt, more impressed by this second visit, sent word to the Dauphin, who summoned Joan to him at Chinon, not far from beleaguered Orleans. She set out on horseback with an escort provided by Robert. He gave her a sword; his vassals a suit of man's clothing. She had her hair cut short like a boy's. Without this disguise a young and handsome girl, travelling through the disturbed country, must have attracted undesirable attention. Joan, however, could trust her companions, who fell at once under the spell of her mysterious strength and innocence. The wearing of male dress soon became for her a divine command.

Avoiding the more dangerous roads, they reached Chinon in March, 1429. Joan was taken to Court, and according to a doubtful legend, picked out the Dauphin from his attendants, among whom he was hiding. When he asked her why she had come, she replied, "The King of Heaven has spoken to you through me, saying that you will be anointed and crowned at Rheims." And she demanded to be sent at once against his enemies.

This was not so simple. It was necessary first to prove that her inspiration was divine and not a diabolical counterfeit. She was accordingly conducted to Poitiers for examination by Charles's Parliament, the rival assembly to that of Paris. Indignant that doubt was cast on her mission, she nevertheless submitted to be examined. Her frank answers pleased the clergy, who were pardonably anxious to secure the services of anyone whose presence might rally the Dauphin's flagging troops; but they asked her for a sure sign that she was sent by God. "The sign I shall show you," she said, "will be the relief of Orleans." A jury of matrons declared her a virgin, and the Maid returned to the Dauphin as an ally of certified worth and integrity.

Marvellous stories about her were already in circulation in Orleans, where her coming was eagerly awaited. Joan dictated a letter to Henry VI, his Regent and the other English leaders, commanding them to "surrender to the Maid sent hither by God,

the King of Heaven, the keys of all the good towns in France that you have taken and ravaged. . . . And you archers, comrades in arms, gentle and otherwise, who are before the town of Orleans, go hence into your own land, in God's name. . . . I am a chieftain of war, and in whatsoever place in France I meet with your men, I will force them to depart willy-nilly; if they will not, then I will have them all slain. . . . Think not in your heart that you will hold the kingdom of France, for it is King Charles, the true heir, who shall hold it. God, the King of Heaven, so wills it, as he has revealed to King Charles by me, the Maid." Not the least interesting feature of this letter is the suggestion that English and French should join forces under her command to undertake a new crusade in the Holy Land. But the English laughed at her letter, calling her witch and strumpet.

She set out at last from Chinon to Orleans. The King gave her a suit of white armour; she rode a white horse, and her standard was borne before her. This had been painted by a Scot, one Hamish Power, resident in Tours; it showed the Saviour on his throne, with angels presenting to Him the *fleurs de lys*, which were Charles's badge. Her coat of arms bore the crest "De par le Roi de Ciel"—"On behalf of the King of Heaven." She carried a sword which was supposed to be a magical blade belonging to the great Charles Martel seven hundred years before. Now and hereafter Joan insisted that the French troops could not be victorious unless they made their peace with God; she urged them to confess frequently, to pray, and, above all, never to swear or allow loose women to accompany them. She personally attacked such camp-followers, even breaking her sword over the back of one of them. It is curious to recall that one of her closest companions was the brave and debonair Giles de Rais, afterwards infamous as the murderous original of Bluebeard. Joan's two brothers were also with her.

On 28th April she arrived in sight of Orleans, the siege of which she had declared herself destined to raise. With her were six hundred wagons of food and four hundred head of cattle. The townsfolk had sent barges to fetch the supplies, but the vessels could

not return because of a contrary wind. "Wait," said Joan, "for in God's name everything shall enter the town." Soon the wind changed, and this incident was duly magnified into a miracle.

The fact that Joan was able to enter Orleans and send in the supplies without a struggle demonstrates how weak the siege was. The assailants were not merely outnumbered tenfold by the besieged, but they were exhausted by hunger and lack of all supplies. Though they held command on the bridge across the river, they could not take Orleans by assault. The French considered themselves too weak to force them to raise the siege. Both sides hoped and waited for reinforcements. Joan arrived to put an end to this ludicrous deadlock.

The degree of military skill with which she must be credited has been very variously judged. Certain enthusiasts declare that she possessed military genius far beyond her years and her times. Others supposed her a tool in the hands of the Dauphin's advisers. In either case she owed both her feats and defeats in the field to unswerving courage and determination. Only boldness was needed to raise the siege of Orleans; but until her coming, courage was altogether lacking in the French camp. They were forty thousand; the English only three thousand.

Five days after her arrival Joan set herself at the head of a sortie, and easily stormed one of the bastions which the English had built round the city. Two days later she led her countrymen successfully against another English position. And the next day again she undertook to capture the key of the enemy's strength, the tower by which the English held the bridge across the river. She laid the first ladder against the rampart, when she was wounded by an arrow in her right shoulder. But her saints appeared to her; she donned her armour again and returned to the attack. By evening her standard was planted on the ramparts; the fort was taken, and the French returned in triumph to the city over the bridge, even as she had prophesied in the morning. More than forty of the English leaders were drowned in the Loire; of their men, four hundred were killed and two hundred captured, the loss representing nearly a quarter of their force. The survivors,

depressed by the new turn of hostilities and disheartened by the continued absence of reinforcements, broke up the siege overnight. Thus the Maid saved Orleans in nine days and displayed her promised sign to all doubters. From that moment she was revered by the Dauphin's party as a messenger from Heaven, and correspondingly loathed by the English and the Burgundians as a monster and a servant of Satan.

She now urged the Dauphin to advance on Rheims. Once again the bold policy was the best. First, however, the fortress of Jargeau was stormed and the Earl of Suffolk and his brother were captured. So easily was this victory won that the French suffered only twenty casualties. After Jargeau, Beaugency fell to the invincible Maid. The reinforcements for which the English had so long been waiting now approached. They were commanded by Sir John Fastolf (Shakespeare's Falstaff), and it is therefore possible that they were not led with courage equal to the new-found valour of the French. The latter, moreover, had their usual advantage in numbers, with twelve thousand men against five. Battle was joined at Patay: Falstaff ran away; his colleague, Sir John Talbot, was captured, and the English were routed. That Joan could also be gentle was shown when she dismounted after the fight beside a wounded English prisoner. She raised his head, soothed him in his pain, and sent for a priest to confess him.

When next she saw Charles she told him that he would shortly receive the whole of his kingdom and be duly crowned at Rheims. He in turn appointed her one of the three commanders of the army. Her prowess and her miracles—for by that time she was held to have performed many, including raising the dead to life—began to circulate all over Europe.

The French now made for Rheims. Troyes, Chalons, and other towns surrendered, and counselled the citizens of Rheims to do the same. On 16th July, just two months after the raising of the siege of Orleans, Charles and Joan entered the desired city. Next day, Sunday, Charles was anointed in the Cathedral, fulfilling the Maid's prophecy. She stood beside him, holding her banner over him.

The next advance was towards Paris. At first all went well; the march was a triumphal progress. Beauvais, Compiègne, and St. Denis fell into Charles's hands. On 8th September Joan led an assault on the St. Honoré Gate of the capital, summoning the inhabitants to throw over their allegiance to the Duke of Burgundy and to surrender. This day was the festival of the Virgin's Nativity, a holy day on which fighting was usually considered out of place. But Joan set her Voices above such considerations—a fact which was afterwards brought against her at her trial.

The assault was a failure. Joan herself was wounded in the thigh by a shot from a crossbow and carried out of danger. Her shining career was already setting into its decline.

The King could no longer afford to maintain his army. He drew off from Paris, satisfied that the city would some day fall into his hands without fighting. Joan spent a month at Bourges, resting and recovering from her wound. She was soon sent for by the Duke of Alençon, who asked the King that she might accompany him on his projected invasion of Normandy. There, as usual, she showed extraordinary dash and courage, but the campaign drooped when winter drew on, and Joan returned southward to journey through the towns she had freed and encourage their citizens to contribute to the King's cause.

The English, themselves very weak, bribed the Duke of Burgundy to greater activity. The inhabitants of Rheims wrote to Joan to tell her that they feared a fresh siege. She bade them take courage: "It shall not so happen; and I may soon encounter them. If I do not, shut your gates firmly and I shall soon be with you."

At the same time she issued a threat to the Hussites of Bohemia: "Were I not occupied with the English wars, I should already have come against you. But unless I learn that you have turned from your wicked ways, I may perhaps leave the English and hasten against you, to destroy by the sword your vain and violent superstition (if I cannot do so otherwise) and to rid you either of your heresy or of your lives." Yet it was Joan herself who was destined to be condemned and executed for heresy.

With the coming of the spring, she set herself at the head of a company of horsemen, archers, and crossbowmen, and returned to the wars. By Easter she was in the field, but her Voices grimly prophesied that she would soon be captured, though no harm would befall her. She marched to Compiègne, which was about to be besieged by the Duke of Burgundy. During her operations round this town she came, on 23rd May, to Crepy-en-Valois, which also was besieged. She led a sortie, crossed the river, and attacked a small Burgundian outpost a mile or so away. Clad in a surcoat of gold over her white armour and wielding a captured sword, she behaved with her usual courage and scattered the terrified enemy. But the Burgundians were reinforced, and the French had to retreat. They broke in panic-stricken disorder to the river; some flung themselves into boats, others swarmed to the bridge. Joan refused to retire, for she was incapable of realising defeat. She cried to her companions, "Think of nothing but attacking them.... Forward! They are ours!" Her squires, however, seized her horse's head and forced her away. But already the bridgehead was held by the English, and retreat was cut off. She was pulled from her horse and surrounded. Urged to surrender on parole, she dauntlessly replied, "I have given my word to Another and I will keep my word." Then she surrendered without terms to an archer named Lyonnel.

He handed her over to his captain, who passed her on to his master, Jean of Luxemburg. Burgundians and English alike rejoiced at her capture; the Duke of Burgundy himself hastened to see her. As soon as the news reached Paris, the University demanded that she should be handed over to the Church for trial as a heretic. Not merely did they hate her as an enemy, but, recognising that hers was the chief share in Charles's recovery, they desired to demonstrate that his victories had been won by disreputable and diabolical means.

After a few days' captivity in the camp outside Compiègne, Joan was imprisoned in the Castle of Beaulieu.

On 14th July Pierre Cauchon, the Bishop of Beauvais, arrived with letters from the University to demand custody of the Maid.

At the same time, as if doubtful whether the Duke and his underlings would agree so lightly to surrender their valuable captive, he offered them ten thousand golden francs. He was one of King Henry's principal French servants, with the rank of Counsellor and Almoner, and also Chancellor to the Queen of England. Thus for him to receive charge of Joan was equivalent to putting her in the power of the English.

She was moved to Beaurevoir, near Cambrai, a more secure prison, where she was confined in the keep of the castle. She was well treated by Jean of Luxemburg's aunt, but a Burgundian noble attempted familiarities with her, which were indignantly repelled. She determined to leap from the top of the keep, although her Voices warned her against this. Disregarding them, however, in her desire to return to the field, she leapt seventy feet to the ground. She was not injured (so it is said; but I do not believe it). Imprisoned again, she asked pardon of her Voices for her wilfulness. Jean of Luxemburg, who seems not to have been loath to hand her over to the English, persuaded the Duke of Burgundy to take charge of her, and she was removed to Arras. There her jailers wished her to doff her male clothes, but she refused. At last, in November, she was handed over to the English and taken to Rouen by way of Dieppe.

The governor of the castle where she was now imprisoned was the Earl of Warwick, her bitterest enemy. The boy King, Henry VI, was also in the town. Joan was chained by the neck, wrists, and ankles in an iron cage, in which it was impossible to stand. Round her waist, too, a chain was placed, padlocked to the wall and not removed even at night. Five English soldiers guarded her, three of them never leaving her presence.

On 3rd January, 1431, the King ordered her to be surrendered for trial by the Church, reserving the right to re-try her in the event of acquittal. Cauchon instructed a prosecutor and summoned a number of priests and lawyers to assist him in the trial. Messengers were sent to Lorraine to gather information about her childhood. To obtain further evidence against her, the prosecutor

introduced himself into her cell, disguised as a fellow-prisoner; another functionary pretended to be a Lorraine cobbler, for the same purpose. The pretended cobbler also visited her in the disguise of a monk, to whom she confessed. While these spies conversed with her, other members of the Court watched and listened at a hole in the wall. These shameful subterfuges can be explained only on the ground that she was considered a dangerous witch.

When all the preliminary evidence was collected, it was decided that there was justification for her trial for heresy. The Vice-Inquisitor for France, Jean Lemaistre, who lived in Rouen, was joined with the Bishop to conduct the proceedings.

The preliminary examination began on 21st February, in the chapel of the castle, in the presence of the Bishop and forty-one Counsellors and Assessors. Before Joan appeared she demanded that she should be permitted to hear Mass, and also that an equal number of judges of the French faction should assist at her trial. Both requests were refused; she was brought in, still in her male dress and with her ankles chained, and seated at a table. Cauchon ordered her to swear to tell the truth on the questions put to her. To this she replied, "I do not know about what you wish to question me; perhaps you will ask me things which I ought not to tell you." Ordered again to take the oath, she answered, "Of my father and mother and of what I did after journeying into France, I will willingly swear; but of the revelations which have come to me from God I will speak and reveal them to no one, save only to Charles, my king. To you I will not reveal them even if this costs me my head, because I have received them in vision and by secret counsel, and I am forbidden to reveal them."

She told her judges her name, her birthplace, the names of her godparents and her age—"I am, I should say, about nineteen years of age." Cauchon ordered her to say her paternoster, but she refused unless she could also attend confession. The Bishop forbade her to leave the prison; but she refused to give her parole, and complained that she was fettered. She was told that this was a consequence of her attempts to escape. "It is true that I wished

to escape," answered Joan simply, "and so I wish still. Is not this lawful for all prisoners?" So concluded the first public examination and she was removed in custody.

Next day and for four more days she was questioned by the Court about her life and deeds. She told of her Voices, her visit to Robert de Baudricourt, her journey to the King, her letters to the English commanders, and her career up to the time of her leap from the tower at Beaurevoir. The questions were often subtly designed to trap her into indiscretions. But her answers were frank and unhesitating, except on some points of which she refused to speak at all. The judges asked if it was God who ordered her to wear man's clothes and short hair. "All I have done," said she, "is by Our Lord's command." After this the judges consulted and decided to examine her in prison on certain doubtful matters. Nine such examinations took place, and at length the Act of Accusation was prepared for her trial. This consisted of seventy articles, which were eventually reduced to twelve chief heads:

(1). She refused to submit herself to the Church Militant, and claimed to have spoken with angels and be assured of her salvation.

(2). She said that the angels appeared to Charles as a sign to him to accept her.

(3). She claimed familiarity with the Saints Michael, Catherine, and Margaret.

(4). She thought herself competent to utter prophecies.

(5). She wore male dress and short hair like a boy's.

(6). She headed letters with the words "Jesus Maria" and the sign of the Cross.

(7). She left her parents against their will.

(8). She attempted to commit suicide by leaping from the tower of Beaurevoir.

(9). She claimed that her Saints had promised her Paradise.

(10). She said that the Saints were not on the side of the English.

(11). She worshipped her Saints and listened to Voices without taking counsel with her confessor.

(12). If the Church wished that she should do anything contrary to the orders she pretended to have received from God, she would not consent, whatsoever it might be.

The whole of this indictment is, of course, a gradual leading up to the last item, by which she was shown to set up her own conscience against the wisdom of the Church. This was the essence of heresy.

The true trial opened on Shrove Tuesday, 27th March, in the great hall of the castle. Cauchon and the Vice-Inquisitor presided; thirty-eight others constituted the Court. The articles of the accusation were read to Joan, who again swore on the Gospel to speak the truth only "on all that touches the case." Day after day the trial continued; sometimes in the hall, sometimes in her cell. The judges sought to trap the Devil in her by cunning questions, but Joan's blend of fundamental simplicity and peasant shrewdness saved her from most of the snares. On some points she refused to reply. Her judges threatened her with torture, the instruments of which were shown to her. "If you were to tear me limb from limb and separate soul and body," said Joan, "I would tell you nothing more; and if I were to say anything else, I should afterwards declare that you made me say it by force." The judges decided that torture would be useless and no attempt was made to apply it. Moreover, the Court was already unanimous, and no further proof was required.

On 2nd May the charges were finally read over to her, with the opinions of the judges and of the University of Paris, which also had been consulted. She was called upon to submit to the Church, to put aside her belief in her apparitions and so to save her soul from damnation and her body from execution. She refused.

Next day two scaffolds were erected in the town. On one sat the judges and the English captains; Joan was placed on the other. She was again exhorted to submit, and again refused. Instead, she demanded that the case should be referred to the Pope

at Rome; but this request was rejected on the ground that the Court possessed ample authority to determine the matter.

Then she was silent, and Cauchon began to read the sentence. He had not read for more than a minute or two when Joan cried, "I will hold all that the Church ordains, all that you, the judges, wish to say and decree—in all I will refer me to your orders." The Bishop broke off, and Joan repeated a long formula of recantation—which had been prepared for her by the judges—and signed it with her mark. In this she confessed all the charges which her accusers brought against her.

For the first time in her life Joan was afraid; the sight of the stake had unnerved her. Cauchon now read a sentence of perpetual imprisonment. She was taken back to her prison, put on woman's clothes, and had her head shaved.

The English captains and soldiers were in despair at her reprieve from death, and we may suspect that they were not wholly innocent in the matter which again placed her at their mercy. For when the judges went to her prison four days later they found her once again dressed in male clothes. Her reasons were, first, that she was forced to remain in the company of men, and male dress was the more suitable; and, secondly, that her captors had broken faith with her by not allowing her to attend Mass and have her irons loosed. She said also that her Voices had come again, telling her that she had damned herself by her recantation. "I would rather," she said, "do penance once for all—that is, die—than endure any longer the suffering of a prison."

It was enough. Joan was held to be a relapsed heretic; and her fate was determined beyond hope of reprieve. She was brought out once more, on 30th May, into the old market of Rouen and placed upon a scaffold. A priest delivered a sermon on the appropriate text, "If one member suffer, all the members suffer with it," after which Cauchon declared that, "As the dog returns again to his vomit, so have you returned to your errors and crimes." She was thereupon formally cast out of the Church and handed over to the secular power with the conventional plea for mercy.

As a general rule in such cases, the civil authorities conducted the prisoner to the Town Hall for sentence. But, such was the eagerness of Joan's enemies to prevent further delay, the Bailie waived this formality and delivered her straightaway to the executioner. A fool's-cap was set on her head, bearing the words, "Heretic, backslider, apostate, idolatress," and she was fastened to the stake. She appealed for a cross; an unknown Englishman made her one of two twigs of wood, which she placed in her bosom. Then she asked a priest to hold a cross before her eyes, which he did. She prayed also to St. Michael and St. Catherine and called on the name of her Saviour. A light was set to the faggots, and the flames rose round her body. Her end was agonising; the executioner was nervous and failed to stifle her with smoke (as was usual) before the fire reached her, and the scaffold was exceptionally high. The charred remains of her body were shown to the people, and her brave heart, which, even after oil was thrown on the rekindled flames, was not destroyed, was thrown into the Seine. Thus perished Joan of Arc, the saviour of France.

All this time the vile Charles made no effort to save her, though it is true that this intervention could have availed little against the fury of the English. In 1450, when he had conquered Normandy and entered Rouen, he ordered an inquiry into the circumstances of the trial. The Church, however, was unwilling to excite the enmity of England by re-opening the case at his request. But, two years later, a way was found to overcome this difficulty. Joan's mother claimed the rehabilitation of her daughter, citing as defendants Cauchon and the other judges, all of whom were dead.

The new trial began in 1455 at Notre Dame in Paris. Joan's mother and brothers presented their petition to a Court consisting of the Archbishop of Rheims, the Bishop of Paris, and the Bishop of Coutances, who were afterwards joined by a representative of the Inquisition. Just as in the original trial every circumstance had been twisted to inculcate Joan, so now all was turned to her benefit. Even the representative of Cauchon's family declared that Joan's condemnation had been forced on him by the English.

More than one hundred witnesses were called to depose to her piety, courage, and integrity, and in June, 1456, the public announcement was made in Rouen, on the very spot where she had suffered death, that the trial was "broken, annihilated, and annulled," as unfair, iniquitous, inconsistent, and erroneous in fact as well as in law.

Yet, beyond doubt, the Church was more justified (according to the customs of the times) in condemning her as a heretic than in rehabilitating her. However deplorable the incidents of her captivity, however despicable the espionage of her prosecutors, however indubitable Cauchon's desire to please his English masters—though it must not be forgotten that he spared her life when she recanted—and to take vengeance on Charles's party, the fact remains that he gave Joan a fair trial, and that she, except for one moment of weakness, defied him, the Court, and the Church to which she was subject, displaying herself an undeniable heretic, and a relapsed one to boot. Her martyrdom was inevitable; she herself demanded it.

But her cruel death will forever shame France. _

BYWATERS AND THOMPSON

BYWATERS AND THOMPSON

It is not beyond experience that a guilty wife and her paramour should plan and perpetrate the murder of her inconvenient husband, though on the whole most of those who break their marriage vows are chary of committing acts of criminal violence.

In that sense the case of Edith Thompson and Frederick Bywaters is not remarkable. Their crime was simply one more example of the depths to which an adulterous passion may drag those who give way to it. In some other respects the crime was remarkable. If the evidence was true, then for months the wife was, under the direction of her partner in infidelity, attempting the life of her husband in various ways, with a lack of success faithfully reported to the other. It is not usual for would-be criminals to vary their methods, and it is at least remarkable that in this respect the accused did show an unusual versatility. Again, it is not really common for the wife to lure her husband, unsuspecting, to the spot where her lover lies in wait for him. But what gives this case its real interest is the problem whether in truth there was any such compact; whether Bywaters had ever communicated to Mrs. Thompson his intention to kill her husband; whether, indeed, he had any such intention until the last fatal moment when he saw the wedded pair quietly walking towards the home which he, by some perverted reasoning, denied the man's title, save in law, to share with her; indeed, whether after the shock of seeing her husband murdered by her lover, of trying in vain to shield the criminal, she was not also tortured by being held as guilty as he and forced to await a shameful death for a crime which, though she had played with it in thought, she did not commit.

It is well at once to say that in such matters the verdict of the

jury, if properly directed as to the law, is conclusive, and rightly so. In this case there was ample evidence on which the jury could come to a conclusion adverse to Edith Thompson. They were told by the Judge in terms, both accurate and impartial, what the question was which would enable them to decide, on the facts, whether she was guilty or not. They saw the witnesses. They heard all the evidence, including the testimony of the two accused. They listened to the arguments and to the summing-up. Juries are not prone to come to hasty conclusions in a grave case; indeed, they are apt to apply too generously, especially in favour of a woman, the maxim that the accused is entitled to the benefit of the doubt. Consequently there is the strongest presumption in such a case that the verdict was a righteous one. The affirmation of the conviction by the Court of Criminal Appeal does not, in this regard, aid those who endeavour to form their own judgment. Rightly, that Court does not usurp the functions of the jury. If the jury are told accurately what are the relevant rules of law, if the Judge has rightly admitted or rejected the evidence tendered, and no fresh facts have come to light, then if the evidence was such that a jury could reasonably base upon it the conclusion to which they arrived, that Court will not disturb the conviction. In this case there was no misreception of evidence, no wrong ruling, no mistake as to the law. The jury were properly directed, and the evidence was such that their verdict could be based upon it. Of that there can be no doubt, and the conviction was rightly upheld.

More weight may perhaps be attached to the action of the Home Secretary in allowing the law to take its course. He is not bound by the laws of evidence: appeals may be made to him on all grounds, whether a court of law could or would have regard to them or not, and he withheld from the condemned woman the exercise of the prerogative of mercy. His is an anxious task, and he is advised by experienced assistants. It is easy, if there is the slightest doubt, to lean to the side of mercy, and the temptation to do so is always urgent. Yet he did not advise a reprieve. This is a potent argument for the inherent justice of the verdict, be-

cause his views were formed on all the materials untrammelled by any formal rules of law or evidence.

So far no mention has been made of the letters. They were remarkable, and deserve attention; but they are not the finest specimens of their kind. Any advocate whose duties lead him into the Divorce Court can call to mind letters of greater fire and passion, full of subtleties and literary grace: these were not. So far as they breathe of passion, they harp monotonously on the same string. She reiterates her desire to be with him for always, lawfully, if that may be achieved, but she longed to be with him, whatever the stigma. Yet she wanted to be respectable. Whatever her words may have been, she desired a lawful union with fair financial prospects. Though it was nearly, it was not quite "all for love, and the world well lost."

The letters have another interest. She had a business training and she reports. The topics were varied but significant. Novels, if they turned on people in a like situation, especially if their difficulties vanished at another's death. Cuttings from the papers if they turned on murder or the tragedies which arise from guilty love. But last, and most damning of all, reports of attempts on her husband's life, reports of failures and requests for information and instruction, so that it would seem the next time would be the last, because successful.

Both parties explained these letters, and their explanations deserve consideration. Moreover, it must be remembered that they are one-sided. She destroyed his letters. He kept hers, and they sealed her doom. But his may have explained her words. We can only imagine what it was that he wrote. And she, after her condemnation, said, "Oh, but you have not seen his." Which was the dominating mind? It has been assumed, as he was a youth of twenty-one and she had lived eight more years than he, that she necessarily led him astray. It does not follow. History is full of examples where youth has taken the lead. In thinking of this unhappy pair, we must remember that we do not know who had the greater influence; by doing so we might avoid facile conclusions.

Important as the letters are, there is other evidence, at least as important, which must be considered. What was the action of each of them at the time of the murder, and during the hours which followed immediately upon that event? Upon these actions of theirs much turns, though it must be borne in mind that if there was a murder pact, the mere fact that it was not carried out exactly when and in the manner planned does not excuse her. But the judge directed the jury to a narrower issue: whether she was party to a plan to commit the murder as it was carried out. It was on that view of the problem that the jury formed their opinion.

Apart from the letters, the facts are short and simple.

The Thompsons were a childless couple who had married in 1915. In 1916 he enlisted, but after a short training his heart was found to be unequal to the strain and he was discharged. In 1921 they were living at Ilford. Both of them were engaged in business in the City, but their employers and occupations were different. Apparently they owned everything jointly, even the banking account was in their joint names, and their salaries were the same weekly sum.

Little was said of Thompson, and the statements about him by the accused may be discounted. He was no doubt an obstacle to their desires, and, as such, his actions were viewed with a jealous eye. It would be difficult indeed for them to judge him impartially. The worst they could allege was one act of violence and his wilful failure to divorce her. That he had some suspicions is undoubted, but it must not be assumed that he knew the worst, merely because they said he did. The actual events of his intercourse with her relations strongly suggest that, so far as he knew, his wife was faithful and there was no reason to think that their married life would not continue. Apparently he desired to have a child and she denied him, partly at least because she wished to reserve that happiness for Bywaters.

It may be that Thompson had slid into the common fault of taking his wife for granted, and failed to realise that his wife was

not ready to be taken for granted, and that thereby she might fall into seeking elsewhere the zest which he had lost.

Bywaters was ten years younger than Thompson. He had been to school with Mrs. Thompson's young brothers and had become a friend of the family. His occupation was that of steward on a liner and he seems to have been exceptionally competent. His leaves of absence occurred at regular periods, and it is not strange that in June, 1921, when the Thompsons spent their holiday at Shanklin, he went with them. There they agreed so well that at the end of the holiday Bywaters came to lodge with them at Ilford. The letters in the case leave no doubt that very soon, almost immediately, guilty relations began. In course of time Thompson began to be suspicious. There was a scene, and Bywaters had to go.

It is at this stage that the letters are the most important evidence. It may be assumed that, in spite of what the couple said, Thompson never knew of their meetings and letters. At worst he thought their intimacy was too close to be seemly in a married woman. He had, however, been stirred by jealousy. She reports to Bywaters that he had on several occasions asked her if she was happy, and had received comforting assurance that she was. He complained at times that since Bywaters had come she had changed. One may draw the inference that he was seeking to keep her by him, and nothing could have been more exasperating to a wife who desired nothing so much as a severance from her husband. But Bywaters could not keep her, and there was nothing to do but wait. They had fixed upon five years as the time. This period is inconsistent with an intention to murder, and it is also inconsistent with Thompson's knowledge of her adultery, for he was to maintain the actual state of affairs until Bywaters could take her away.

Nevertheless, it is certain that Edith Thompson had no one clear intention. While her lover was away, her letters show at one and the same time a desire to commit suicide and to continue living; she can be shown to contemplate leaving Thompson and yet making plans which assume that she will not do so. But writ-

ing was at least a palliative. She pours out to her lover her opinions, her plans, her interesting cuttings, her literary criticism. But she was far from attaining her longing to enjoy her lover alone and without interruption. Though her position as an employee facilitated writing, it almost barred their meeting during the hours when the husband was at work. Her position as a wife, who normally came home when her husband did, made it difficult for interviews at other times. Though five years was the period named, she found as many months too long to wait. It was plain that events would hasten, especially as her lover showed some slight signs of cooling passion.

At last, on 23rd September, 1922, Bywaters reached England on the conclusion of his last voyage. He saw Edith Thompson two days later, and then again on the 2nd and 3rd of October. They alone could tell all that happened between them, but it may be confidently asserted that when they parted on the afternoon of 3rd October he knew that she would accompany her uncle and her husband to the theatre, and knew also when they would be walking from the station to their home and the streets along which they would pass.

He himself spent the evening with Mrs. Thompson's family. He had a legitimate reason for going there, and in any case it would be natural for him to call. He made an appointment to take one of them to the cinema on 4th October. This may indicate the absence of any murderous design at that time, or may be carefully prepared evidence to negative such a design which had been already agreed. He left at 11 p. m., and in the ordinary course he would arrive home, miles away from Ilford, by the time the Thompsons were walking home from the station.

Necessarily the facts of the murder were not proved with precision. The murdered man was walking with his wife and had nearly reached home. Bywaters seems to have been lying in wait for them. He rushed out and stabbed Thompson, and then ran away.

Mrs. Thompson said she was pushed violently away and was dazed. All she saw was a struggle and then the assailant running

away. But she recognised him. If she is to be believed, she was unable to see what happened at the crucial time, but there was evidence that she called out piteously, "Oh, don't! Oh, don't!" and that seems to prove that she saw the stabbing.

It is certain that she ran for help. It is certain that she was hysterical and incoherent. It is also certain that when the doctor was summoned she ran ahead of him to her husband. When the doctor pronounced him dead she reproached him for not coming sooner to save her husband. But, incoherent as her words were, hysterical as she was, she retained sufficient self-control to omit all mention of Bywaters or a struggle. It was not until the next day that she mentioned "a man" to the police, and then only when told that they were sure he was murdered. Her first statement was not full or candid. But a surprise awaited her. She was taken past the room where Bywaters was in custody. In her surprise, she called out, "Oh, God, what can I do? Why did he do it? I did not want him to do it." Then she said that she must tell the truth, and, for the first time, told the story of the man rushing out from the street, pushing her away and struggling with her husband, and admitted that as the man ran away she saw that it was Bywaters. Each of them had made a statement before they recognised one another at the police station and realised that each was in custody. The immediate effect on each was to induce them to say more. Bywaters in effect said that his design to meet the Thompsons was not formed until after 11 o'clock and that Mrs. Thompson was not aware of his intention. From thenceforward each of the accused adhered substantially to the statements wrung from them by their sudden meeting at the police station.

There can be no doubt that Bywaters murdered Thompson. His plea of self-defence was never likely to succeed, and may be dismissed. But the woman was in a different position. It was never alleged that she had done a single act to her husband which brought about his death.

It is necessary, therefore, to digress somewhat to explain the rules which govern joint responsibility for a criminal act com-

mitted by one person. It is not necessary either in law or in reason that the actual deed shall have been done by an accused person. When he acts alone, that act may be done by him or by an innocent agent. If several unite in a criminal design, the act of one in furtherance of that design is imputable to all. If A, B, and C, acting in concert, meet D, and A jostles him, and B, thereby enabled to pick his pocket, takes his purse and hands it to C, then the theft is committed by B alone in the sense that it is he who does the felonious taking. But it is obvious that all three are, and ought to be, equally guilty of the theft. Again, if two men set out to commit a burglary, one to stand outside and watch and the other to break in and steal, both are equally guilty of burglary. But if the marauder kills the householder who suddenly disturbs him, then the watcher is not guilty of murder, unless it can be shown that there was a common plan to overcome opposition by force. In other words, a man cannot be held guilty of an act which he did not plan and had no intention to bring about.

Mrs. Thompson, therefore, was not guilty unless Bywaters was acting in concert with her. Mr. Justice Shearman said to the jury: "You will not convict her unless you are satisfied that she and he agreed that this man should be murdered when he could be, and she knew that he was going to do it and directed him to do it, and by arrangement between them he was doing it."

The evidence upon which the prosecution mainly relied to satisfy the jury consisted of the letters and of her conduct immediately before and after the murder. It is impossible to say to which the jury paid greater attention, though the public revelled in the letters. There can be no doubt that in them she discussed and re-discussed plans to murder her husband. She mentions attempts which failed, and makes suggestions and asks for information about poisons. Admittedly, she had destroyed Bywaters' letters, and one can only infer what he wrote. But there is no trace in her replies that his letters reprobated these discussions and attempts; indeed, the only doubt is whether it was he who instigated the communications she wrote to him.

Bywaters attempted to explain them away by saying that they

referred to her intention to commit suicide, and he, to prevent it, was humouring her. She on her part explained them as letters pretending to accede to his plans without furthering them, letters written with the object of binding him to her. It must be admitted that the attempts she describes seem singularly clumsy, and do not ring true. Her advisers, indeed, called evidence to prove that some of her statements were untrue. The medical evidence neither supported nor contradicted the attempts she mentions. It therefore was apparent to the jury that both prisoners could not be accurate. The wording of the letters disproved Bywaters, and yet his story tended to discredit hers, and she, as to some part of her statements, was proved a liar. It is easier to take the letters as meaning what they say: that the two were discussing ways and means of murdering Thompson—an agreement to commit murder if it could be done so as to avert suspicion. But this plan was for her to commit the murder, and that by some method of poisoning. The actual crime was a murder committed by Bywaters by an act of violence—a different method. Had they agreed that, as she had failed, he would now try in his own way to accomplish their design? If so, then the change of person and of method is explained.

One extract may make it clear that there was discussion of ways and means to murder. It is taken from a letter of 1st April, 1922. She had seen a flat which "is just the thing we wanted," and later "he" (i.e., Thompson) "was telling his mother, etc., the circumstances of my 'Sunday morning escapade,' and he puts great stress on the fact of the tea tasting bitter, 'as if something had been put in it,' he says. Now I think that whatever else I try it in again will still taste bitter—he will recognise it and be more suspicious still, and if the quantity is not successful—it will injure any chance of trying it when you come home. Do you understand?" And then, after warning him not to let a certain "Dan" become suspicious, "because if we were successful in the action—darlint, circumstances may afterwards make us want many friends," she continues, "He says—to his people—he fought and fought with himself to keep conscious—

'I'll never die, except naturally—I'm like a cat with nine lives,' he said, and detailed to them an occasion when he was young and nearly suffocated with gas fumes. I wish we had not got electric light—it would be easy. I'm going to try the glass again occasionally—when it is safe—I've got an electric globe this time."

After reading the letters, whether given in evidence or not, the strong impression remains that the most merciful view possible is that these two were playing with the idea of murder.

When the evidence as to the actual murder and succeeding events is examined, then a question naturally arises: Why should it be committed in her presence? It is hardly credible that she was to aid by hindering her husband's defence of his life. Nor was it necessary for Bywaters to have her presence or assistance in order to find a man whose habits he must have known. It brings her in, and, unless he succeeded in getting clear away, it also will bring in her family, with whom he was to spend the evening. She must explain, or suspicion would rest upon her. It would have been easier if she was not there at the time, because then she could have nothing to explain.

As a plan it was a stupid plan, unworthy of the intelligence that the prisoners undoubtedly possessed. But if the result of a sudden fit of jealous temper, then it is more natural.

Again, if the affair was planned, then the parties, one would expect, had agreed upon a common story. But did they? There was no opportunity to meet later and concoct one. Yet it is not easy to see that these two did agree upon any story. As to the letters, indeed, their evidence was mutually destructive, but then probably she thought them destroyed, and he did not dare reveal that he still had them.

Then there is her behaviour. A woman who has led her husband to the slaughtering point would presumably be "bloody, bold, and resolute," but she wailed piteously. "Don't! Oh, don't!" She ran for help. She ran back ahead of the assistance she had summoned, and violently reproached the doctor for not coming sooner. She was hysterical and incoherent. All this indeed she might have been, and yet guilty. Even a murderer has been known to be un-

manned by the sight of his victim, and to have frantically endeavoured to recall the life which he has destroyed. But it is not likely. Nevertheless, frantic and incoherent, she suppressed the name of Bywaters. Her words, gasped out to the first people she met, were designed to induce them to believe that her husband had been taken ill. Was it all a pose? There are grave reasons to believe that it was, and yet it may have been genuine emotion. She would naturally desire to shield her lover, and her agitation, however great, need not be taken as inconsistent with surprise and shock, even if she conceived the one idea that Bywaters was to be kept out of it. Certainly what she said and did cannot be attributed to a preconceived plan; such a plan must have included some explanation by her, some conduct, designed to clear them both. It may be that she forgot her part. She was ably defended by Sir Henry Curtis-Bennett, who did his utmost for her. The summing-up erred, if at all, in her favour. It was for the jury to decide whether the circumstances which pointed to her guilt convinced them in spite of the indications which might suggest that she was not concerned in this particular attack. They decided that the circumstances proved her guilt beyond reasonable doubt.

Yet, admitting that she planned and plotted murder, recognising that if I had presided at the trial I should have directed the jury upon the same lines as Mr. Justice Shearman, realising that, as a member of the Court of Criminal Appeal, I should, like the Court, have found no reason for quashing the conviction, I have still a small, lingering doubt whether Edith Thompson on that night was present at a crime which she had arranged or, indeed, whether she had any idea that any such crime would be attempted. But I was not present at the trial, and no amount of reading will be equivalent to seeing the witnesses and hearing them give evidence. And anyhow, she had the will to destroy her husband for the sake of her lover.

CHARLES I

CHARLES I

THE Martyr King is the creation of the Roundheads. In Charles's lifetime men saw only too clearly that he was lacking in judgment; that he could not see that the pursuit of inconsistent policies at the same time damaged belief in his sincerity; that he had an amazing faculty for alienating supporters when most he needed their support; and that, after sacrificing devoted servants to their pursuers, he himself had ventured his fortunes on civil war and had lost all. This is not to say that he alone was responsible for all the evils that preceded and ensued upon the Civil War. There were faults upon both sides, and his difficulties were in their way more serious than those over which the Tudors had triumphed. Unlike them, he had fought his subjects and rebellion had won mastery.

As a captive he caused more problems than ever. To the Scots he had proved a means of extracting money from the English. Once handed over, there was a threefold risk. He might escape. He might make terms with Parliament. He might make terms with the Army. His captivity showed that these risks were all real ones. In 1648 there had been Royalist uprisings. Power was in the hands of his opponents, but could they keep it safely if he remained alive?

Although to outward appearance Parliament and the Army were ranged on the same side, there were ominous signs of disunion. The Commons had suffered from defections and death, only partially remedied by new elections. The Lords adhering to the Parliamentary side were a mere handful, almost without influence, though still treated as one of the Houses of Parliament. Among the members of the Long Parliament Presbyterianism had flourished and was supreme. The Army was now controlled

by its leaders, who with few exceptions had no sect in Parliament. They adopted the tenets of the Independents. The feeling undoubtedly existed that the victors should succeed to the government of the realm. In substance, therefore, Parliament and the Army were at variance, and both made overtures to the King.

If he had realised his position he might have made terms, harsh and unenviable, but still such as might have saved the position.

In August, 1648, while Royalist risings were being put down and Cromwell was marching to beat the Scots at Preston, Parliament decided to re-open negotiations. But the failure of previous attempts and the re-opening of hostilities had convinced the majority of the soldiery that the Levellers were right in demanding Charles's blood.

In November, 1648, the Council of Officers adopted "The Remonstrance of the Army," which included in plain terms a demand for the trial and execution of the King. On 1st December they removed him to Hurst Castle so that Parliament could not approach him; and to make it clear who was the master, Colonel Pride, on 6th December, went to the Commons and excluded all but seventy-eight of the members. In this way the Independents in Parliament became supreme and harmony was restored between Parliament and the Army, but power had passed to the Army. A last attempt at a settlement, which would have deprived Charles of all but ceremonial rank, hopelessly failed. It was decided to make him a sacrifice.

On 2nd January, 1648-9, the Commons passed an Ordinance creating a Court of Trial. Three judges were to sit with a jury of one hundred and fifty commissioners (of whom twenty were to form a quorum). This Ordinance was accompanied by a resolution that it was treason in the King to levy war against the Parliament and Kingdom of England. Even the Lords who still met, some sixteen in number, could not stomach this, and they rejected both Ordinance and resolution. It would not have succeeded in any case, as the three judges named all refused to serve.

This attempt proving abortive, the Commons tried again. On 6th January they passed three resolutions, boldly claiming su-

preme power for the Commons, and declared that their enactments had the force of law even without the assent of King and Lords. Following upon this, the Commons two days later created a Court of one hundred and fifty Commissioners who were to act as judge and jury. Criticisms of the lawfulness of this tribunal were disregarded. "I tell you," thundered Cromwell, "we will cut off his head with the crown on it."

The Commissioners named included Fairfax, Cromwell, Ireton, a few peers, some baronets and knights, five aldermen of the city, a sprinkling of lawyers, and a number of others. Some of them at least were not asked to consent and refused to serve. The quorum was twenty. Fairfax was appointed to command the troops who were to keep order.

The first meeting was held at once. Some fifty-two attended, headed by Fairfax and Cromwell. The meetings to consider matters in private were held in the Painted Chamber, the public sessions were in Westminster Hall. The trial was appointed for 20th January, and the Commissioners then discussed what should be done if the prisoner showed contempt. It was decided that the President, John Bradshaw, should admonish him, and in case of need should have the King removed or adjourn the Court, but they gravely decided that they would not insist upon his wearing his hat, and if he desired time to put in an answer he might have it. The Solicitor-General (Cook) produced the indictment, which was approved.

On Saturday, 20th January, the first public session was held. When the sixty-five Commissioners who attended had taken their place the guards were set and the Hall thrown open to the public. The Ordinance creating the Court having been read, the names of the Commissioners were called.

The next step was to arraign the prisoner. Charles was brought in by Colonel Tomlinson, his gaoler, attended by Colonel Hacker and the guard of thirty-two. The King was conducted to a crimson velvet chair placed opposite to the President. Charles took his time. He looked at the people crowded in the Hall, and when he pleased he sat down, but soon stood up again and resumed his

scrutiny of the bystanders. At last he sat down, with his servants standing to his left.

Bradshaw informed him that the charge was about to be read, and Cook began. The King interrupted, but was told that he would be heard when the charge was read.

The indictment charged that he, being King and trusted with a limited power to govern according to the laws, and bound to use his powers for the preservation of the rights and liberties of the people, had, in order to obtain unlimited power, designed to overthrow those rights and liberties. It alleged that he had waged war against Parliament and the people at Beverley, York, Nottingham, where he had set up his standard, and at the battle of Edgehill, and had continued these wars down to 1648, whereby "much innocent blood hath been spilt, many families have been undone, the public treasure exhausted, trade obstructed and miserably decayed, vast expense and damage to the nation incurred, and many parts of the land spoiled, some of them even to desolation." It also charged him with giving Army commissions to foreigners and intending to invade England by Irish forces. It concluded by impeaching "the said Charles Stuart as a tyrant, traitor, murderer, and an implacable enemy to the Commonwealth of England."

During the reading of this indictment Charles continued to look round the Hall, but when the words "tyrant, traitor, and murderer" came he smiled. About this time, as the superstitious noted, the head of the King's cane fell off. Some accounts say that he was left to pick it up himself, others that Mr. Rushworth picked it up. But whether the head had fallen off or not, it would have made no difference.

Apart from the legality of the trial, a question which will be discussed later, the great interest lay in the manœuvres that ensued. The Commissioners were well aware that their authority was, to say the least, disputable. It was important to get Charles to plead, because thereby they could claim that he had recognised their jurisdiction. Elizabeth's Commissioners had succeeded in getting from Mary Queen of Scots such support to their jurisdic-

tion as an answer would give, but Charles was not unaware of the trap. It was also important not to allow the jurisdiction of the Court to be impugned, though every accused person can, if he has such a point, plead to the jurisdiction. On the other hand, Charles desired to challenge the right of the Court to try him, and, apart from that, to vindicate his position. It would seem that the Commissioners did not much mind his making his defence if only he would plead, but they did mind an objection that they were no lawful Court. The course of the trial therefore consisted of Charles endeavouring (1) to raise the question of jurisdiction, and (2) without pleading, to make a statement which at least would appeal to the people, while the Commissioners obstinately refused to allow any argument or statement unless the prisoner pleaded. Neither was completely successful. If Charles never pleaded, he was never allowed to make his points, but at least he did succeed in making it abundantly plain that the trial was a mere sham to lead to a foregone conclusion. But the fact that each wanted, if possible, to induce the other side to concede a point explains the comparative courtesy with which the Commission treated the King and the King the Commission.

As soon as the charge was read and Bradshaw required him to answer, the King at once raised a sore point. He had been in negotiation with the Lords and Commons but had been removed. He desired to know why, and by what authority he should answer. "Remember I am your King, your lawful King, and beware lest you bring sin upon your own heads and the judgment of God upon this land. Think well of it, I say, before you go from one sin to a greater. Therefore let me know by what lawful authority I am seated here and I shall not be unwilling to answer. In the meantime, I shall not betray my trust. I have a trust committed to me by God, by old and lawful descent, and I will not betray it to answer a new unlawful authority." The short colloquy that ensued merely showed a complete deadlock, and the Court adjourned. As the King was taken away, some cried "God save the King!" Others cried "Justice, justice!"

On Monday the 22nd the Commissioners sat in private to con-

sider the situation caused by the challenge to their authority. Sixty-one attended. It was resolved that the King should not be allowed to raise the question of jurisdiction but should plead only in answer to the charge. If he would not, or would do so only under protest, Bradshaw was to require him in solemn terms to make confession or denial.

At the subsequent public session sixty-nine Commissioners were present.

Cook, the Solicitor-General, moved that the King be directed to answer by confession or denial, and if he refused that the charge should be taken as admitted.

Bradshaw then informed the King that they were satisfied with their authority and required him to plead without delay. Charles replied that if it were his own case alone he would be content with the protestation which he had made, but it was not his own case alone. It was the freedom and liberties of the people of England. "If power without laws may make laws, and may alter the fundamental laws of the kingdom, I do not know what subject he is in England that can be sure of his life or anything that he calls his own." He was beginning to state his objections when Bradshaw broke in upon this speech to prevent the very inconvenient arguments. The King must submit and answer. The King protested, but Bradshaw was peremptory. Charles tried again. He pointed out that any delinquent was entitled to object that the proceedings against him were illegal. This true and obvious point was hardly countered by Bradshaw saying that it was overruled. It had not been properly argued. Still all Charles's attempts to speak were stopped, and the Clerk of the Court read the formal order that he must answer. The only answer was, "I will answer the same as soon as I know by what authority you do this." Bradshaw ordered him to be taken away, but for a time he and the prisoner recriminated. Charles had the better of the exchange, especially when he said, "Remember that the King is not suffered to give his reasons for the liberty and freedom of his subjects," but the Commission had the power and he was taken away.

A further private meeting decided upon another attempt. At the next session, when sixty-nine again came into Westminster Hall, the Solicitor-General moved that Charles should be treated as having admitted his guilt. It was a rule in treason cases, when the accused would not put in a plea upon which an issue could be tried, that he should be taken to have pleaded guilty.

Bradshaw then warned his prisoner that the Court would not permit him to continue to delay their proceedings, and ended, "Sir, in plain terms (for the law is no respecter of persons), you are to give your positive and final answer in plain English, whether you be guilty or not guilty of the treasons laid to your charge." The King hesitated and then asked if he might speak freely, but was told that he must not until he pleaded. He then declared that he stood for the liberties of the people of England. He branched out into the sore question of the negotiations with Parliament, but was stopped, and again the Clerk read the formal demand that he should plead. He refused and was taken away.

The Commissioners sat in private to decide upon the course to adopt. They determined to hear witnesses, though, because in their view the King was guilty by reason of his contumacy, they would only hear them in private. A committee to take evidence having been appointed, thirty-two witnesses were called who proved, what was beyond doubt, that Charles had taken an active part in the Civil War. Then various of the King's documents were read in evidence. After this a provisional resolution was passed that the King should be condemned to death. A committee was appointed to draft the sentence of the Commission.

At the next meeting the draft was finally approved, and on the 27th the Commission sat and determined upon the procedure. If Charles would plead or raise any point worth considering, they would reconsider the position. Otherwise the sentence should be read. The King might speak before, but not after, sentence.

At the public session Bradshaw and Charles disputed who should have the first word. Bradshaw won and informed him of the decision. He invited Charles to speak, but forbade any mention of jurisdiction. The King then suggested that he should be

heard by the Lords and Commons. "If I cannot get this liberty," he ended, "I do protest that your fair shows of liberty and peace are pure shows and that you will not hear your King." Bradshaw remarked that this was denying the authority of the Court. The King protested that it was not, though it was true that he did not acknowledge its authority. As this was a new point, the Commission sat in private to consider it.

When they resumed, Charles was brought back and informed that they had resolved to proceed to sentence. Charles had a further struggle to speak, but Bradshaw finally ruled that, as he did not acknowledge the Court, it was not proper for him to speak—which seems to be a complete *non sequitur*, and also contrary to the decision reached in private. Nevertheless, the sentence was read, ending, "That the said Charles Stuart, as a tyrant, traitor, murderer, and public enemy, shall be put to death by severing his head from his body."

Charles attempted to speak, but Bradshaw ordered him to be removed and only a few incoherent sentences were heard.

On the 31st January the sentence was carried into effect.

Considering that Charles stood helpless in the hands of men who were determined to condemn and execute him, he effected as much as his forensic opportunities allowed. He made it clear that the Court was one of doubtful authority, and that he was not permitted to make a statement. He also made the striking point that, if his trial were lawful, then no other had security for his life or property. By dragging in the negotiations with Parliament he demonstrated that the Army and the purged Rump had now usurped power, and by his bearing he had impressed the bystanders with his dignity. More no man could have done. So far, therefore, as the interest of the trial turns on the manœuvres, it must be conceded that the honours went to him.

There remains the serious question whether in law the trial was a trial at all. If the problem be approached from the standpoint of the law as it stood in 1642, when the King raised his standard, or as it was restored in 1660 and has remained ever since, there can be no possible doubt that the trial was wholly

unwarranted. Indeed, the holding of the trial was in itself an act of treason, as the Regicides found in 1660. But to solve the problem on that ground would be to ignore the actual facts. For seven years two hostile armies had been contending, and for the latter period undoubtedly the actual government of the realm had been exercised by Parliament, or the part of it which had not rallied to the King.

For a further eleven years the government was a Protectorate, acknowledging no King. It is therefore true to say that, at the time of the trial, authority in this country was vested in the hands of those who ordered that trial.

The question was raised at the trial of the Regicides. It is true that, according to the barbarous practice of the times, they, like Charles, were denied counsel, but some of them were practising barristers and could therefore make their points properly. Take the argument of Cook, the Solicitor-General. He said (1) that he acted as counsel under the then supreme power; (2) that words could not be treason and it was not proved that he signed the indictment; (3) that counsel were not to be taken as personally holding views expressed by them in Court; (4) that in time of peace it would have been treason, but the King was in the hands of the Army; (5) that, acting for a fee, what he did was judicial and not malicious (This argument naturally drew from the prosecution an allusion to Judas.); (6) that he was within the Declaration of Breda. None of this really touches the problem. There were two points that could be, and were, raised by the others. One was that it was by the Statute of 11 Hen. VII no treason to serve a King *de facto* against a King *de jure*. This can be dismissed. As the Court remarked, there was no King *de facto*. It was, indeed, one of the reasons why Oliver Cromwell was asked to assume the royal state. In the indictment Charles was expressly named as being the actual King, and consequently no defence could possibly be based upon the statute.

The other point was in effect the same but on a broader basis. The trial was held under the authority of the then supreme power, and consequently, it was urged, it was a lawful trial.

There can be no doubt that, where a previous form of government is overthrown, a subsequent form can be established and will in due course be duly lawful. When the stages are, as usually happens, obscure and not easy to trace, it necessarily follows that, during the period before settled government revives, jurisdiction is doubtful but, if the change is confirmed, will become certainly lawful by the event.

At the time the trial was held the situation was most obscure. The rule of King, Lords, and Commons had not been formally abolished. The rule that all justice is administered in the name of and for the King had not been abrogated, nor was there any express repeal of the undoubted rule of law that the King is not criminally responsible for any of his acts. In fact, Parliament had defied the King. Justice was administered without regard to him. But Parliament had been forcibly purged, and only a remnant of the Commons remained. The House of Lords still sat; was not abolished until after the King's execution; had unanimously rejected one proposition for the trial; and was not consulted as to the other which was acted upon. Indeed, it was the resolution upon which the trial was founded that was the first manifest declaration that the Rump claimed sovereign power.

Such an act can only become lawful if the event confirms the authority of the actors. At one time it seemed that England had passed under another system of government, tracing its origin to the overthrow of the monarch. But that appearance was not reality. England was then, as now, faithful to the cause of monarchy. What it desired was stable government acting under the rule of law. Charles had failed to give the country what it desired, and therefore he fell. His supplanters also failed, and in time they fell, so that with the Restoration it became manifest that the trial of Charles was part of an experiment that had failed, and it is in the light of that failure that the Regicides must be judged. They aimed high and struck a noble quarry, but they succeeded only in their immediate aim. Whatever may be the view of the right policy at the moment, it is certain that they,

by the trial, committed treason and could not complain when fortune turned the scales against them.

And Charles, in his trial and at the moment of his death, proved himself a greater and a braver man than ever his friends had believed him to be.

THE SEDDON CASE

THE SEDDON CASE

THE miser is familiar to all readers of fiction. Parsimony, covetousness, the love of gold for its own sake, the neglect of all else that makes for happiness, even the habit of jingling coins and counting them, as if this produced some physical pleasure—all these traits have been portrayed over and over again by melodramatic writers. Nor is their portrait an exaggeration; the annals of the law testify to the prevalence of misers; for the temptation that their hoard presents to the evil-doer makes them the frequent victims of violence. Usually the criminal is the very reverse type to his victim. It is as if the thought of so much hoarded wealth, by contrast with his own dissipated habits, goads him to a fatal act. It is almost inconceivable that the murderer of a miser should himself be a creature of the same type, but this is one of the features which makes the Seddon trial of 1911 unique in the history of crime. For Eliza Barrow was a miser, and Frederick Seddon, who was hanged for her murder, was another.

There are other matters connected with the trial which make it remarkable, and to these I shall refer later, after describing the sequence of curious events which came to light at the inquest, the magistrate's hearing, and the subsequent proceedings at the Old Bailey.

Eliza Mary Barrow was about forty-nine years of age at the time of her death. She was unmarried, eccentric, deaf, unclean in her personal habits, inclined to drink heavily, quarrelsome, suspicious, and a miser. In her own lower-middle class world she was certainly a woman of means, for she possessed a capital of some £4,000, principally in the form of £1,600 India $3\frac{1}{2}\%$ Stock, the leasehold of a public house and an adjoining barber's shop, and a certain sum of loose money. There stood to her credit in the Finsbury & City of London Savings Bank a sum of £216, and she

gloated in private over a hoard of gold and banknotes which she hid in a cash-box.

This comparative wealth made her an object of interest to her relatives, among whom she was regarded very much as was old Martin Chuzzlewit in his circle. That is to say, they endeavoured to bear with her ill-humour, and to insinuate themselves into her graces, for the sake of the money she might eventually leave them. Like Martin Chuzzlewit, she harboured few illusions about her relatives, and indeed conceived a very lively dislike for most of them. At the same time she was not averse from taking advantage of their protestations of affection, and many years of her life were spent inexpensively in their houses. From 1902 to 1908, for example, she boarded with a couple of them, Mr. and Mrs. Grant, and appears to have abated somewhat her habitual ill-temper in respect of the wife, with whom she had the friendly bond of excessive drinking. When Mrs. Grant died—two years after her husband—Miss Barrow adopted their two children, Hilda and Ernie. The girl was placed in an orphanage, but the boy, who at that time was six or seven years old, accompanied his protector uncomfortably, and in the end tragically, in her later movements.

This strange couple, the drab and greedy spinster and the little boy, went to lodge with other relatives, Mr. and Mrs. Vonderahe, in North London. After eighteen months the usual quarrel took place. It ended with Miss Barrow's spitting in Mrs. Vonderahe's face and looking about for more congenial accommodation. In this search she was aided by two other disinterested relatives, Mr. and Mrs. Hook, the brother and sister-in-law of Mrs. Grant. They saw an advertisement of an unfurnished floor to let in a house in a neighbouring street, Tollington Park, and, accompanied by Ernie, the three of them called there in July, 1910.

No. 63, Tollington Park, was the property of Frederick Henry Seddon, a superintendent of canvassers for the London & Manchester Industrial Assurance Company. He lived in a portion of it with his wife, Margaret Ann Seddon, their four children, and a more or less half-witted maid.

Seddon had been born in Lancashire in humble circumstances some thirty-eight years before. He had made his way in the service of the company by conspicuous industry and trustworthiness, becoming a superintendent in 1896, and district superintendent for Islington in 1901. But besides his post at the company he was ready to turn his hand to any enterprise, however paltry, by which he could gratify his overwhelming desire for gain. Thus, he set up his wife in a second-hand clothes shop; he speculated in cheap house property; he was even prepared to "walk on" at suburban theatres for half-a-crown a performance. As will be seen from the story of this trial, greed was his over-mastering passion.

The house in Tollington Park was the result of one of his less successful speculations. He had bought it at a moment when the property market was depressed, with the object of letting it at a profit. But, no satisfactory offers being made, he decided to live in it himself, letting the second floor to tenants and the basement to his company as an office for himself. The tenants left, and he advertised the vacancy. Thus began Miss Barrow's fateful acquaintance with him.

She and Ernie and the Hooks moved into the four rooms at a weekly rent of twelve shillings. Apparently she was to provide the money for the housekeeping, in return for Mrs. Hook's services as maid and cook. Within a week they were quarrelling. The trouble began with a conversation about Miss Barrow's public-house property; was intensified by the Hooks taking Ernie out for a day without her; and ended with her telling Seddon that she was afraid of the Hooks, and begging him, as landlord, to turn them out. During this animated week-end she entered Seddon's dining room and, insisting on his shutting the door, showed him the cash-box, which she asked him to lock up for her, lest her relatives stole it. According to Seddon's account, he asked her how much money was in it, to which she replied that there was about £30 or £35. He refused to accept responsibility unless she counted the contents and took a detailed receipt; she returned to her bedroom with the box to satisfy herself about the amount, but locked herself in and did not return.

Seddon, who clearly guessed the position of the Hooks in regard to Miss Barrow, ejected them, and soon acquired the confidence of his eccentric lodger. He was admirably qualified to be her confidant, for both he and she worshipped money, especially in its tangible forms. It is a bizarre thought that, simultaneously and in the same house, the two of them, each in jealous seclusion, was gloating over different hoards of gold and listening to its delightful music as it ran through their fingers. To increase their intimacy, Seddon's daughter, Maggie, a girl of about fifteen, became Miss Barrow's maid, for a payment of seven shillings a week. She and her mother prepared the lodger's food in the latter's private kitchen upstairs.

Seddon discovered that the spinster was worried about her public house and the effect that the Lloyd George Budget would have upon its future. She told him that the barber's shop next door depended largely on the public house for its customers, and that a falling-off in the one would seriously affect the other. Also, she had paid 108 for her India Stock, which had now fallen to 94. She was terrified of becoming poor. The question of an annuity was broached; finally Seddon offered her an annuity at the rate of £10 a month and her rooms free in exchange for the stock and her titles to the property. The stock and the titles were transferred to him in due form, and in the first week of January, 1911, he paid her the first monthly instalment of £10.

At the same time he sold the stock and bought some cheap houses on a mortgage with the proceeds. Characteristically, Miss Barrow insisted on receiving her payments in gold. So nervous was she of allowing her money out of sight that, when there was a run on a certain bank, she decided that her deposit in the Savings Bank was unsafe, and went with Mrs. Seddon to draw it out. She drew the £216 in gold and, placing the sum in her cash-box, hid this in her trunk.

For several months life went on at 63, Tollington Park, without incident. Miss Barrow drew her money regularly from her landlord and, with her ward, became more and more intimate with

him and his family. On 1st August, accompanied by Mrs. Seddon, she paid a visit to a neighbouring physician, Dr. Paul. He diagnosed her complaint as congestion of the liver, and gave her a harmless mixture, containing rhubarb, bicarbonate of soda, and carbonate of magnesia. From August 5th to 8th the entire household, to which Seddon's aged father had now been added, went to Southend for a holiday, leaving the half-witted servant in charge of the house. A week after their return Miss Barrow again consulted the doctor, and, as she complained of asthma, he gave her a prescription of bicarbonate of potash and nux vomica. She paid two more visits to him before the end of August. The doctor, who did not consider her indisposition serious, prescribed variously chloral hydrate and extract of grindelia. On 1st September she was taken ill with a bilious attack, followed by vomiting and diarrhœa, and on the following evening Maggie Seddon called on Dr. Paul to ask him to visit her. Dr. Paul was too busy to go, and another doctor, Dr. Sworn, who had attended the Seddons for several years, was called in. The weather was at that time unusually hot, and, since there was an epidemic of diarrhœa in the neighbourhood, Dr. Sworn saw no reason to doubt that Miss Barrow was suffering from this complaint. He prescribed a mixture of bismuth and morphia, and, visiting her again the next morning, repeated the prescription.

Miss Barrow disliked the appearance of this medicine, and, as she was still suffering, Dr. Sworn, on 4th September, prescribed an effervescing mixture of citrate of potash and bicarbonate of soda, telling her that, if she failed to take it, he would have to send her to a hospital. She said she would not go. He saw her again the four following days and found her slightly better. On Saturday the 9th he gave her a blue pill containing mercury. His next visit was on the Monday morning; she was not in pain, but very weak. He instructed Mrs. Seddon to give her brandy and Valentine's meat juice. He saw Miss Barrow for the next and last time on the Wednesday, September 13th, and, while recognising that her weakness placed her in some slight danger, saw no reason to anticipate death.

But at seven o'clock on the morning of the 14th, Seddon called at Dr. Sworn's house and reported that Miss Barrow had died an hour previously. Seddon added that he and his wife had been up all night with her; that she had been in considerable pain; and that she had at last gone into a state of insensibility and died. Dr. Sworn, of his own accord, gave him a death certificate, in which the cause of death was stated to be epidemic diarrhœa.

During the morning Seddon called upon a local undertaker, with whom he had a slight acquaintance, stating that a death had occurred in his house, and that he wished to make arrangements for an inexpensive funeral, as only £4 10s. had been found in the dead woman's possession, which must defray both the funeral expenses and a fee to the doctor. The undertaker suggested an inclusive funeral of £4, explaining that this would mean interment in a public, as distinct from an individual, grave. Seddon replied that 10s. would not be enough for the doctor, whereupon the obliging undertaker reduced his charge to £3 7s. 6d.

The body was removed by the undertaker that evening, and two days later Miss Barrow was buried at Finchley. Thus Seddon, who by her death came into unrestricted possession of the bulk of her property, gave her in return the paltriest funeral in his power. What was more, he arranged with the undertaker that, although he was to pay only £3 7s. 6d., the receipt would be for £4, so that 12s. 6d. would be, as he said, "a little bit of commission like." Such was Seddon's nature.

All this time Miss Barrow's relatives, the Vonderahes, were living only a few hundred yards away, but it was not until several days after the funeral that they learned by chance that she was dead. Immediately both Mrs. Vonderahes—for there were two brothers—called upon Seddon who asked why they had not attended the funeral, handing them at the same time the carbon copy of a letter which, he said, he had sent them immediately after the death. It was addressed to the house where the Vonderahes had previously lived; but, if sent, it was certainly never traced there or forwarded to their new address. Seddon also

handed them three documents. The first was a letter in which, as executor of Miss Barrow's will, he informed her relatives that she had left all her remaining property to Hilda and Ernest Grant, with himself as sole trustee until they came of age. The letter added that she had parted with her investments in return for an annuity, which had died with her, and that "she stated in writing that she did not wish any of her relatives to receive any benefit at her death, and during her last illness declined to have any relations called in to see her, stating they had treated her badly and had not considered her, and she would not consider them."

The second document was a copy of a will signed by Miss Barrow three days before her death, and witnessed by Seddon's wife and his father, giving effect to the arrangements he had mentioned. The third was a memorial card, "In ever-loving memory of Eliza Mary Barrow," with this verse:

A dear one is missing and with us no more,
That voice so much loved we hear not again,
Yet we think of you now, the same as of yore,
And know you are free from trouble and pain.

Affected no doubt by these sentiments, one of the visitors inquired what had happened to the public house and the barber's shop, and found to her dismay that these, like the investments, had passed into Seddon's possession. She remarked that whoever persuaded Miss Barrow to part with her property must be an extremely clever person, and pointed out that the dead woman should have been buried in her family vault at Highgate. Before the ladies left, they asked Seddon to see their husbands next day, but he explained that he and his wife were going away for a fortnight's holiday. On their return Seddon sent for the elder brother, replying to the latter's questions by referring him to the Governor of the Bank of England for an assurance that the stock had been properly disposed of.

One can picture the irritation of the relatives at finding themselves not a penny the richer by Miss Barrow's death, and confronted by Seddon as practically the sole gainer. It is hardly sur-

prising that a communication was made to the police, with the result that, a month later, Miss Barrow's body was exhumed and an inquest begun. Seddon was arrested on 4th December, and charged with the wilful murder of Miss Barrow by the administration of arsenic.

There followed one of the strangest incidents in the whole of the strange story. Two days after his arrest, Seddon, through his solicitor, sent his daughter Maggie to buy some fly-papers, explaining that Mrs. Seddon thought it possible that the presence of arsenic in the body might be explained by some arsenical fly-papers having been in the dead woman's bedroom; he wished similar papers to be analysed in support of this theory. When it is realised that the prosecution, neither then nor afterwards, was clear how the poison was administered, the significance of Seddon's action can be understood. At last the police had a clue. Why did Seddon send his daughter to buy the fly-papers? Was his reason genuine? Or was he seeking to put the prosecution on a false track? Wherever the truth lies, Maggie's errand hanged her father.

The police pursued their inquiries in several directions, and in January Mrs. Seddon, too, was arrested. On 4th March, 1912, her husband and she were jointly charged at the Old Bailey with the wilful murder of Miss Barrow. The Attorney-General, Sir Rufus Isaacs, now Lord Reading, led for the Crown. Seddon was represented by Mr. Marshall Hall, and Mrs. Seddon by Mr. Gervais Rentoul. The trial lasted for ten days, full of dramatic surprises. Public interest became even greater after the Attorney-General's opening speech, for it was clear that he depended on an ingenious and closely woven chain of circumstantial evidence.

In relating the outline of Miss Barrow's last years, with much of which we are already familiar, the Attorney-General disclosed the surprising fact that more than thirty £5 notes, belonging to Miss Barrow, had been traced during her lifetime to the possession of either the male or the female prisoner, some of them endorsed by Mrs. Seddon with a false name and address; and that, on the evening of the day when Miss Barrow died, the prisoner

was seen in possession of at least two hundred sovereigns in gold. These, it was suggested, were among the contents of Miss Barrow's cash-box. And on the next day Seddon had gone to a jeweller with a ring and watch belonging to the dead woman; he had the ring altered to fit his finger, and her name erased from the watch and a new dial inserted. The Attorney-General declared also that he would prove the purchase by Maggie Seddon of a packet of arsenical fly-papers on 26th August, a few days before the fatal illness began.

One of the first witnesses for the Crown was Hook, the man who was ejected with his wife from Seddon's house at the beginning of the dead woman's tenancy. He declared that the cash-box had then contained about £400 in gold, as well as banknotes, and that he had carried the box round from the Vonderahes' house to Seddon's. Then the Vonderahes were called, and they also appeared to have cast glances at the cash-box. After them the tenants of their old house swore that no letter addressed to Mr. Vonderahe had been delivered there during September. After evidence proving that the Seddons had banked or changed the thirty-three banknotes, various transfers of stock and property from Miss Barrow's possession to Seddon were detailed.

Ernie Grant, the ward of the dead woman, a small boy with adenoids, was called. He stated that he was ten years old, and had known Miss Barrow, whom he called "Chickie," as long as he could remember. When she was taken ill, he said, she made him sleep in her bed. He saw her counting her gold for the last time before they went to Southend. Once when he had annoyed her by running round the room early in the morning she had threatened to throw herself out of the window. During her illness she had complained of the flies in her room, but he had never seen any fly-papers there. Mrs. Seddon had usually given her her medicine. He added that, since her death, the Seddons had been very kind to him.

The next thrill was the appearance in the box of Mary Chater, the maid, who deposed that, during Miss Barrow's last illness, Mrs. Seddon cooked the invalid's food upstairs. Chater said that

she had been in many positions; as maid or nurse, remaining in them for only short periods; that she had served in hospitals, and still wore nurse's uniform on occasion; that she had seen no fly-papers in the house and that she had not, knowingly or unknowingly, administered arsenic to Miss Barrow. Although she would not admit it, she was not prepared to deny that her brother had been in a lunatic asylum for twenty years.

Seddon's father gave evidence about the signature of the will three days before the death. Miss Barrow, he said, could not thoroughly understand it when it was read to her, and had asked him to fetch her glasses from the mantelpiece. He could not remember whether there was anything on the mantelpiece, but he had not looked very minutely. He thought he had seen fly-papers in the house, but "could not exactly say whether they were wet or dry." He accompanied Mrs. Seddon to the undertaker's to lay a wreath on the coffin; the coffin lid was open, and Mrs. Seddon *stooped down to kiss the corpse on the forehead*.

Seddon's sister stated that her husband had written to her brother in the first week of September, asking him to lodge her and her daughter during their stay in London. Seddon had replied that an old lady was ill in the house, but they could take pot luck, if they wished. They duly arrived.

The smell from the sick-room had been most unpleasant, which she considered unhealthful both for Mrs. Seddon's nine-months-old baby and for Ernie Grant, against whose practice of sleeping with Miss Barrow she had also expostulated as neither healthful nor decent.

On the evening of the day of the death, she stated, Mrs. Seddon had accompanied her to a music-hall. On the following day all the blinds in the house were still down, and she had inadvertently pulled one up; Mrs. Seddon, much annoyed, had immediately replaced it.

The undertaker's story of Seddon's parsimony in regard to the funeral created a sensation. This was followed by the evidence of a chemist, who declared that he had sold a packet of arsenical fly-papers to Maggie Seddon on 26th August. He re-

membered the day, he said, because the customer had asked for four packets—each packet contained six papers—and he had only one in stock. After selling her this, he made a note to order more. Thus he was certain of the date. It soon appeared, however, that his identification of Maggie Seddon was open to question. He had at first told the police that he was not sure that he could identify the girl to whom he had sold the packet; yet he knew Maggie Seddon, though not by name, as a girl who had twice called to see his daughter. It was not until the police had made many visits to him, until the case was being discussed, and until a portrait of Maggie had appeared in a newspaper, that he was asked, more than five months after the alleged purchase, to identify his customer out of twenty females assembled by the police. Of these only one or two were girls with plaits of hair down their backs, and he had immediately picked upon one of them, Maggie, as his customer.

The two doctors who had attended Miss Barrow were called, and Dr. Sworn deposed that, although arsenic was well known as an adulteration of carbonate of bismuth—which he had prescribed for the patient—he should not think that his own supply of bismuth would contain any. The stock of bismuth which he had dispensed in September was now exhausted, and thus no test could be made. He added that, so far as he could judge, Mrs. Seddon was most kind and attentive to the invalid.

Dr. Willcox, the senior scientific analyst to the Home Office, who had conducted the original analysis of Miss Barrow's remains, declared that, in his opinion, over two grains of arsenic, more than a fatal dose, were in the body at the time of death, which meant that probably five grains had been taken within a few days of death. He was of opinion that the cause of death was arsenical poisoning.

He had used, among other tests, a scientific method known as "Marsh's test," not merely to demonstrate the presence of arsenic in the body, but also to provide a calculation of the probable amount existing in it. The defence placed great emphasis on the fact that, for the purposes of this quantitative test,

multiplications by 2,000 had to be used, the margin of error being thus very considerable, especially in view of the fact that no large total amount of arsenic had been discovered.

The fifth day of the trial opened with Mr. Marshall Hall's submission to the judge that there was insufficient evidence against either prisoner for the case to go to the jury. He pointed out that neither prisoner had been proved to have been in possession of arsenic or to have administered it; the case for the prosecution, he claimed, rested wholly on the fact that Miss Barrow's death was to the male prisoner's financial advantage. He claimed that the presence of arsenic in Miss Barrow's hair pointed, on the admission of the expert Crown witness himself, to the deceased woman having taken arsenic for perhaps twelve months, and arsenic was used as a remedy for asthma, from which she was known to suffer. He repeated his doubts about the efficacy of the "Marsh test" as a quantitative calculation. Mr. Justice Bucknill, however, ordered the trial to proceed. Mr. Marshall Hall then opened the case for the defence.

He emphasized the circumstantial nature of the evidence and the contrast it implied between Seddon's alleged cleverness in some respects and what must appear to be his rashness and stupidity in others. Thus the prosecution suggested that Seddon, who was no scientist, knew how to extract the requisite amount of arsenic from the fly-papers and how to administer it in such a manner that its action would escape the notice of the two doctors who had been called in. Yet this clever man was supposed to have disclosed his possession of a large quantity of the dead woman's gold immediately after her death to his two assistants in the Assurance Company. Mr. Marshall Hall explained that the police were first set on the track of fly-papers, as the possible source of the arsenic, by Maggie Seddon's attempt to purchase them after her father's arrest; but the prosecution could not prove that there had been fly-papers in the house before Miss Barrow's illness began, for the chemist's identification of Maggie Seddon as his customer on 26th August was valueless. He would tell the jury why Maggie had been sent by her father's solicitor to pur-

chase fly-papers after the proceedings had begun; it was because Mrs. Seddon, racking her brains to think how arsenic could have entered the body, could think of nothing else to account for it but the fact that such fly-papers, purchased by herself *after* the fatal illness began, had been placed in a bowl of water near the bed. Possibly the invalid, tortured by thirst, had drunk this liquid.

There was another point, said Mr. Marshall Hall, which must not be overlooked. Seddon could easily have had the body cremated, a process which would effectively have destroyed all trace of arsenic. For this he had only to have the body viewed and certified by another doctor, which, since two doctors had attended Miss Barrow in her illness, would have been extremely simple.

Finally, he reminded the jury that it was their duty to acquit the prisoner unless the prosecution proved its case, which, he submitted, it was unable to do.

A few minutes later Seddon himself gave evidence. He was entitled to do so, and availed himself of what should have been to his advantage; but, by doing so, he probably sealed his fate. For his demeanour in the box was that of a cool, clever, self-satisfied man who gloried in every opportunity of money-making. He was easy and glib in his answers. His explanation of his transactions with Miss Barrow, of her last illness, and of his possession of large sums of money immediately afterwards, came pat from his lips; the only time he showed emotion was when suggestions were made against his wife. All observers in Court agree that the jury turned against him during his long ordeal as a witness, and it is more than possible that, had he not elected to give evidence, he might have been acquitted, if not as an innocent man, at least as one against whom the crime of murder was not proven.

He told the story of his career, revealing incidentally that his wife's dealings in second-hand clothes had ended in a family quarrel and her leaving him for some months. He recapitulated the whole story of his financial transactions with Miss Barrow. He came to the illness. Four days after this began, he said, he

had entered her bedroom to remonstrate with her for going into another room when she was so ill. He noticed (as had the doctor) that the room was full of flies, this being the reason why Miss Barrow had gone into another room. A week later, on September 11th, his wife told him that Miss Barrow was worried about the children, Ernie and Hilda, to whom she wished to bequeath her furniture and jewellery.

He suggested that she should send for a solicitor, but his wife told him that she insisted on seeing him, as she disliked solicitors. He saw Miss Barrow, who asked him to draw up a will. While he was there, he noticed four fly-papers in saucers containing water. He drafted the will, and brought it in the evening for her to sign, propping her up with pillows.

At the same time his wife told him that Miss Barrow would not take her medicine, the effervescing mixture, so he took a bottle in each hand and his wife poured out some of the contents, which he mixed together and drank to encourage the invalid. After this example, he mixed a dose for her. This and an occasion on the fatal night when he gave her some brandy were the only times when he offered her anything to drink or eat. He was at a theatre (probably "walking on") during the whole evening of the 13th, and returned home half an hour after midnight. His wife and sister had heard Miss Barrow cry out that she was dying, but did not take this seriously. He had been in the house about half an hour when the boy Ernie called out from upstairs, "Mrs. Seddon, Chickie wants you!" As this had been going on night after night and his wife was worn out, he accompanied her to Miss Barrow's room. After remonstrating with the invalid for disturbing Mrs. Seddon so frequently, he gave her a drop of brandy and, since the smell in the room was unbearable, he left her. He and his wife went to bed about half-past two, but within an hour she was called upstairs again by the boy. The next time this happened, he went up with her, and again remonstrated. A quarter of an hour later Ernie roused them once more by shouting, "Chickie is out of bed!" Could one conceive for the poor

lad a night more appalling? They rushed up and found her sitting on the floor at the foot of the bed, supported by the boy. They put her back in bed and stayed with her during the next two hours, Mrs. Seddon dozing in a chair at the bedside and her husband smoking a pipe just outside the door. Just after six in the morning she died. Seddon went for the doctor, and on his return assisted his wife and the charwoman to lay out the body. Then, according to his story, he opened Miss Barrow's trunk in their presence and found only £410s. in the cash-box. Later he found three sovereigns hidden in a drawer.

At the close of the seventh day of the trial Mrs. Seddon gave evidence. She declared that Miss Barrow had asked her to cash the banknotes into gold, and, never having done this before, she endorsed them with the first name that came into her head, a false name. She bought fly-papers on 4th September—the first fly-papers she had ever bought in her life—and had distributed four of them in the sick-room, first separately in saucers containing water, and then all together in a soup-plate.

A doctor was called who had previously attended Miss Barrow for gastritis due to drinking. Then Margaret Seddon, the sixteen-year-old daughter, was placed in the box. She denied purchasing fly-papers from the chemist who had identified her. It now appeared, however, that the police were prepared to show that her evidence was not reliable. For, intentionally or not, she had at first denied to a detective that she had ever been to purchase fly-papers, whereas, as was already known, she had attempted, after her father's arrest, to purchase some for his solicitor. This second chemist, recognising her name, had refused to serve her. She may have meant her denial to be a denial of the actual purchase rather than of the intention. The police asked her if she had "been to purchase" fly-papers; if she understood them to say "been and purchased," her denial would have been correct. But the prosecution insisted on this inaccuracy as proof of her unreliability as a witness.

Mr. Marshall Hall made an eloquent speech to the jury on be-

half of his client, and Mr. Rentoul addressed them for Mrs. Seddon. Sir Rufus Isaacs' closing speech was a brilliant and detailed exposition of the case for the prosecution.

The Judge's summing-up can only be described as unfortunate, no matter what view one takes about Seddon's guilt. Mr. Justice Bucknill was an elderly man, on whom the strain of the long trial had obviously told. It is certain that several of his observations had exactly the opposite effect on the jury from his purpose. Thus, for example, he impressed on them that, if they doubted Seddon's guilt, they must find him Not Guilty, but he reminded them that "there are doubts, more or less, involved in every human transaction." Again, when he referred to Seddon's not sending for a doctor when he found Miss Barrow on the floor on the night of her death, he added, "Do not be prejudiced too much. It is not because he did not send for a doctor that he murdered the woman, but it is a factor to take into your consideration. Do not make too much of it, but do not forget it." And again, referring to the transaction with the undertaker, the judge commented, "It was bad—it was about as bad as it could be. Pass that over, and do not be too much prejudiced against him." The effect of these remarks on the jury was probably far from his desire.

Also in summarising the facts, the Judge made at least two errors prejudicial to the prisoner. One was a statement that Mrs. Seddon had admitted leaving her husband alone with Miss Barrow on the fatal night. In short, his summing-up was damning to Seddon, but, like the Attorney-General's closing speech, much more favourable to Mrs. Seddon. The jury, after an hour's consideration, found Seddon Guilty and his wife Not Guilty. Seddon swiftly gave his wife a kiss which resounded through the Court; and she was carried, hysterical, out of the dock.

The drama of the trial was not yet at an end. Seddon was asked, according to custom, if he had anything to say before sentence was passed. He made a long statement in a perfectly calm voice, mentioning the main error in the Judge's summing-up, and offering a careful explanation of certain monetary trans-

actions to which reference had been made. He urged also that however Miss Barrow had died, suspicion would have fallen on him: "Had Miss Barrow thrown herself out through the bedroom window, I would have been believed to have thrown her out or pushed her out. Had she fallen downstairs, the same thing would have applied. When she went to Southend, had she fallen into the sea, Mr. Seddon would have pushed her into the sea." And, at the end, he raised his hand in the air in Masonic form and cried, "I declare before the Great Architect of the Universe, I am not guilty."

The Judge was himself a Mason, and, as he passed sentence, he reminded Seddon that the brotherhood to which they both belonged did not encourage crime but condemned it, and exhorted him to make his peace with the Great Architect of the Universe. Seddon twice interposed a quiet sentence. "I have a clear conscience," he said, and "I am at peace."

His appeal failed, and he was hanged on 18th April, 1912.

Mrs. Seddon created a sensation a few months later by selling a statement to a newspaper that she had seen her husband administer poison to Miss Barrow, and that he had terrorised her into silence with a revolver; but a few days later she retracted this statement on oath. Then she married again and went to America with her family.

There are still many points of interest in the case. The manner of the administration of the poison, if indeed it was administered, remains a mystery. It has been stated that Dr. Willcox, the principal medical witness for the Crown, though he believed Seddon guilty, did not think that he had obtained the arsenic from fly-papers. Certainly the weakest point in the prosecution was the chemist's identification of Maggie Seddon as the girl who had purchased fly-papers from him before the fatal illness began; and the method by which the police trapped the girl into an inaccuracy, thus discrediting her veracity, did them little credit. It was, after all, Seddon himself who put the idea of fly-papers into the heads of the police, though why he should have done so, if he was guilty, unless it was to set them on a false scent, is not

clear. Strangest of all, why was the girl sent to purchase them, when any employee of the solicitor could have done this without exciting suspicion?

Was poison wilfully administered to Miss Barrow? Did she die of it? It was certainly found in the body. Who administered it? Did Seddon? Was he shielding anyone? Had Miss Barrow been taking arsenic secretly as a remedy for her asthma? Was a large quantity of arsenic accidentally present in the doctor's drugs? Did she commit suicide? To these and similar questions the verdict of the jury must be a sufficient answer.

I do not wish again to discuss the propriety of a conviction based upon circumstantial evidence; its weaknesses are obvious, although clearly there must be occasions when no other evidence can be adduced to bring a villain to justice. In this case, the evidence seemed to point almost equally to both prisoners, yet one was acquitted and the other condemned. It is a tradition of English law that, in the majority of crimes for which husband and wife are jointly charged, the wife is held to be acting under the husband's coercion. This does not apply in cases of murder and treason, so that the finding of the jury (with which the Judge expressed himself in agreement) becomes more significant. One must suppose that they were influenced—as juries, and judges, too, must always be—by the demeanour of the respective prisoners; and that they found their verdicts in accordance with personal impressions which no one who was not in Court can hope to appreciate. Probably Seddon's demeanour as he gave his evidence told against him as greatly as his terrible mistake in sending his daughter after his arrest to buy fly-papers. The jury may have concluded from his coolness that he was indeed capable, as the prosecution declared, of consummating a wicked and premeditated poisoning, with two doctors in attendance and a party of relatives taking "pot luck" in the house, in order to satisfy that greed of gain to which he was enslaved.

Seddon's case was undoubtedly prejudiced by his difficulty in explaining satisfactorily how the dead woman's banknotes had come into his possession. That some very peculiar transactions

had taken place during her lifetime cannot be doubted, but what they were and what offence, if any, had been committed, we can never know. The Seddons were not tried for larceny, but for murder.

There is an apparent but not a real difficulty in squaring a conviction based on circumstantial evidence with the accepted tradition that, in an English Court, a prisoner is considered innocent until he is proved guilty. Where circumstantial evidence, however strong, is adduced, as in the present case, the prisoner, to escape conviction, is in effect called upon to prove himself innocent. This Seddon failed to do. The prosecution could not prove decisively that he administered the poison, but, equally, he could not explain how the arsenic entered Miss Barrow's body, and he had very much to explain which he failed to explain.

One last point of interest. A petition was organised on behalf of the convicted man; those connected with it noticed that, whereas men signed the petition with alacrity, women signatories were rare. The reason appears to have been that Seddon was a man and Miss Barrow a woman, and that, since at this time the suffragette campaign was at its height, an echo of that political sex-conflict penetrated into the unsuccessful effort to obtain a reprieve for the miser of Tollington Park.

FRANCIS BACON

FRANCIS BACON

“THAT the Lord Viscount St. Albans, late Lord Chancellor of England, should pay a fine of forty thousand pounds; be imprisoned in the Tower during the King’s pleasure, and be forever incapable of any office, place, or employment, in the estate or Commonwealth; and that he should never sit in Parliament, or come within the verge of the Court.”

This sentence, pronounced in the House of Lords on 3rd May, 1621, by Lord Chief Justice Sir Robert Hutton, broke the career and fortunes of Francis Bacon, most profound of jurists and philosophers, most enigmatical among great Englishmen. Bacon himself was spared the humiliation of appearing before the House, over which he had so majestically presided as Lord Chancellor, to receive sentence. His enemies, anxious to degrade him publicly, had arranged a spectacular final scene to his public career. The Commons were to be summoned to the Bar of the Upper House; the judges in their robes were to be present; and with every accessory of ceremony Bacon was to be sentenced for his crimes. The Usher and Serjeant of the House of Lords visited Bacon to inform him of the rôle he was to play. They found him too ill to leave his bed; and so the Lords were compelled to proceed in his absence.

The trial, which thus ended in an anti-climax, contains in its proceedings little that is dramatic. Accounts of it read much as other minutes of ordinary Parliamentary business under James I.

To understand the importance of Bacon’s trial it is necessary to know something of the man’s career. He was born on 22nd January, 1561, the youngest son of Sir Nicholas Bacon, Lord Keeper of the Great Seal, at York House, a mansion which stood to the east of what is now Villiers Street, Strand. He spent his childhood in the pleasant gardens of his London home or at his

parents' country house at Gorhambury, in Hertfordshire, learning his first lessons from his mother, the daughter of Sir Anthony Cooke, tutor to King Edward VI. She was a blue-stocking of pronounced puritanical views, who translated volumes of sermons from the Italian and quoted Latin ceaselessly both in her conversation and her correspondence. Her husband, a humorous, easy-going man, bore with her, one suspects, as he placidly endured all that life brought him.

When the boy had entered his twelfth year he was sent to Trinity College, Cambridge, accompanied by his brother Anthony, his elder by two years. At Cambridge, Bacon immediately commenced the study of philosophy, and criticised the science of Aristotle, then held in almost universal reverence. In 1572, a new star had appeared in the constellation Cassiopeia, which, after burning in the sky for two years, vanished as suddenly as it had come. This phenomenon, occurring in a region which Aristotle had declared incapable of change, provided the youthful undergraduate with a ground for assailing "the infallibility of the Pope of Philosophy."

Christmas, 1575, saw the end of the brothers' residence at Cambridge, and in the following year they were admitted to Gray's Inn, not as ordinary students, but—because they were sons of a judge—as "Ancients of the Inn." Not many months later Bacon interrupted his studies to go to Paris in the suite of Sir Amyas Paulet, Elizabeth's ambassador to the French Court.

His father's sudden death brought him hurrying back to London. He found that Sir Nicholas had procrastinated too long concerning his youngest son's patrimony; and, at the age of nineteen, Francis found himself faced with comparative poverty. To make any figure in the world, he would have to work for his living.

Accordingly he applied himself assiduously to the law, and in 1582 was admitted as an "Utter Barrister" of Gray's Inn. Two years later he entered the House of Commons for Melcombe Regis. He was launched on his chosen career of politics.

Bacon's first act, when he felt himself fledged as a Member of Parliament, was to compose a treatise, *Advice to Queen Elizabeth*, in which he advised her comprehensively upon the policy she ought to pursue in regard to a crisis threatening the solidity of the Church of England. To-day such a method of making a name in the political world appears fantastic; but Elizabeth's Court, round which all politics revolved, was a fantastic society. The courtiers were corrupt, intriguing, and faithless, forced by the parsimony of their mistress to descend to the least dignified expedients to augment their incomes. All depended on the caprice of a shrewd but vain and hasty woman, who valued servile obedience more even than flattery, and whose caprices were as important to her subjects as the rise and fall of parties and cabinets have become to their descendants. The Queen's personal interest and favour counted for everything in such a world, and Francis Bacon was determined to win them. He seemed to have every chance of success. His appearance and manners were pleasant; he was the son of the Queen's late Lord Keeper, and nephew to Burghley, her principal adviser; Sir Amyas Paulet had written to her of him as "of great hope, endued with many good and singular parts, and one who, if God gave him life, would prove a very able and sufficient subject to do her Highness good and acceptable service." Besides this, Elizabeth was a warm friend and patron of Gray's Inn, where to this day her name is honoured and her memory toasted. Apparently no young man could have rosier hopes of rapid advancement to great place and fortune than Bacon.

Yet year after year of flattery and hard work brought him no tangible rewards. The only crumb he gathered was the reversion of the Clerkship of the Council in the Star Chamber, worth £1,600 a year (equivalent to six times the amount to-day), and for that he had to wait four-and-twenty years. More than once he sought to convince Burghley how worthy he was to fill high office, and how convenient the great man would find it to have his intelligent and devoted nephew as his trusted lieutenant. To all his pleas Burghley replied coldly, though Bacon assured his

uncle that he would not in any way interfere with the advancement of his cousin, Robert Cecil, Burghley's son.

Why did Burghley move no finger to help his kinsman? Was he moved by personal dislike and distrust? Did he genuinely fear for his son's career at the hands of a cleverer and unscrupulous cousin? Did he imagine in the Queen so fixed a disinclination to advance Bacon that he judged it foolish to attempt his preferment? The true reason for his coldness remains unknown. Perhaps personal distrust of his nephew weighed more heavily with Burghley than any other consideration. He was a man of ponderous sense, cool judgment, and much shrewdness, uninspired by any spark of intuitive genius. His nephew was subtle, adroit, smooth, and insinuating—the very type most likely to antagonise a man of Burghley's temperament.

Despairing at last of his uncle's interest, Bacon turned to the Earl of Essex, then rising to power as the Queen's closest favourite. Essex accepted him as his friend and adviser; and for three bitter years Bacon sued through his new patron for the place of Attorney-General, and then for that of Solicitor-General. He was unsuccessful. In disgust he uttered a vow that he would spend the remainder of his years in learned and studious seclusion at Cambridge, but to soothe his disappointment Essex generously presented him with land worth nearly £2,000.

Nevertheless, Bacon continued his pursuit of preferment, without much heed to dignity or principle. In 1597 he was reduced to the expedient of seeking a rich wife. Vehemently supported by Essex, he wooed the widow of Sir. William Hatton, but the lady would have none of him. In the following year his possessions were so scanty that he was arrested for debt by an impatient creditor while he was on his way from "discharging the Queen's business at the Tower."

In 1601, Essex, having ruined his own fortunes by hot-headed wilfulness, gathered all his resources for the last desperate gamble which culminated in his childish "rebellion" and arrest. Prudent Bacon severed his connection with so alarming a patron before the crash came; and when Essex stood his trial for treason, his

former confidant rose in Court to prove that the prisoner was not only a traitor but also a liar and a hypocrite. Bacon occupied a peculiar position in the case: he was both counsel for the prosecution and witness. He could first give evidence and, a moment later, question the prisoner or address the Bench on his own testimony. He performed his task with fierce efficiency, and, largely owing to his speeches in Court, Essex was condemned and executed.

Bacon cannot be excused for thus aiding the ruin and death of his friend, but it is certain that he acted under some compulsion. Had he not contributed his evidence and his particular knowledge to the prosecution, he must have forever abandoned hope of any preferment. Creditors clamoured round him; he was forty years old, and younger men seemed to be outstripping him. The choice between loyalty to a friend and his own future was one which his temperament could only decide in one direction. He anticipated great rewards for his services. Actually he received only £1,200 without even the promise of a place. However, the Queen was growing old, and Bacon looked forward to her death with renewed hope. He had only to wait two more years.

Hardly was she in her grave than Bacon wrote to her successor, the pedantic, ungainly King James: "I think there is no subject of your Majesty's," he protested, "who loveth this island . . . whose heart is not set on fire, not only to bring you peace-offerings to make you propitious, but to sacrifice himself a burnt offering to your Majesty's service; amongst which number no man's fire shall be more pure and fervent than mine."

Despite all Bacon's fervour and wire-pulling, James was at first no more "propitious" towards him than Elizabeth had been. Bacon hoped that a monarch who flattered himself on his own learning would welcome him as a congenial counsellor; yet James made no sign that Bacon's appeals touched his heart or intrigued his intellect. A fresh financial crisis, which probably involved his arrest for debt a second time, drove him to appeal desperately to his cousin Robert Cecil not, indeed, for advance-

ment—"for as for any ambition, I do assure your Honour mine is quenched"—but simply for credit to meet pressing bills, though he hinted that his retreat from the political arena might be cloaked in the decency of a knighthood. He further proposed to mend his fortunes by marriage with "an alderman's daughter, a handsome maiden."

This match was not concluded for three years, but Bacon had the satisfaction of being knighted in the King's garden at Westminster with three hundred others—judges, doctors of civil law, Court officials, and plain citizens. According to his declared intention, he should now have retired from the struggle in which he had fared so poorly for more than twenty years, but he could not restrain his itch to offer James advice. He felt himself so full of apt counsel—he could perceive a solution for every difficulty of policy—that he must expound it in writing and send it to the King. James was concerned for the pacific union of England and Scotland under his crown, and Bacon offered him a *Brief Discourse Touching the Happy Union of the Kingdom of England and Scotland*.

James acknowledged it graciously. It was the turning-point in its author's fortunes.

Delighted by this small triumph, Bacon followed it with a dissertation on the *Pacification and Edification of the Church*, directed to guide James through the tortuous theological mazes of the Hampton Court Conference. Soon afterwards he was warmly supporting the royal policy in James's first Parliament, where his zeal was rewarded by a pension of £60 a year for life—not very valuable to its recipient, but a clear token of royal favour, enough to start him again on a campaign of place-hunting. At last he was successful; his support in the Commons won the King's gratitude, and on 25th June, 1607, Sir Francis Bacon became Solicitor-General. He was fifty-seven years old.

Henceforward his progress was rapid. The lean days were ended. In 1608 his long-promised reversion of the Clerkship in the Star Chamber fell in; three years later James promised him the reversion of the Attorney-General's place, which he obtained

in 1613. Yet into these years of important prosperity he carried the scars of twenty years' rebuffs and disappointments. He was a man to whom expediency had become the final criterion. Ambition consumed him; he would not be satisfied until he sat on the Woolsack. He had become so ingrained a flatterer that it was said of him, not unjustly, that "he knew not his own mind till he knew the King's." The years of his struggles are more important for an understanding of the man than the years of his power, because they show by what a process the moral side of his character was spoiled.

As the most uncompromising upholder of James's prerogative in the Commons, Bacon continued his advancement. His Cousin Cecil was dead, and could no longer stand as a barrier between Bacon and the King's inner councils. A new favourite arose at Court, George Villiers, with whom Bacon allied himself and whom he sustained with the ready advice he knew so well how to offer. With Villiers's aid and by his own assiduity in extending James's prerogative, Bacon became Lord Keeper of the Great Seal on 7th March, 1617, though he did not receive the office of Lord Chancellor until the following January, a week after Villiers became Marquis of Buckingham. Not many months later Bacon was created a peer with the title Baron Verulam of Verulam.

Bacon had arrived. He was rich and powerful, one of the most important men in the realm. He had reached the highest position in his profession; he had triumphed over all his enemies; he had overtopped his old rival, Sir Edward Coke, with whom he had squabbled in Elizabeth's time, and saw him temporarily suspended from his duties as Lord Chief Justice of the King's Bench.

Lord Verulam kept his sixtieth birthday on 22nd January, 1621, in the house of his birth, celebrating the day by a great feast at which, among a great company of the celebrated and powerful, Ben Jonson sat down. Five days later James created him Viscount St. Albans. But within four months he was broken and disgraced, stripped of all his places and most of his fortune.

Observant in most matters, Bacon was too sanguine to perceive how bitter an opposition he had roused by that straining of the

royal prerogative which had secured him the favour of James and the support of Villiers. In addition, he had made fresh enemies by enforcing monopoly patents in which the favourite and his relations were financially interested. These patents were, theoretically, licences granted to one person to retain for him a method of manufacture or some especial commercial enterprise, judged to be beneficial to the State. The abuse of this theory had so grown, that in 1620 a contemporary observer wrote: "The world doth even groan under the burden of these perpetual Patents; which are become so frequent that whereas, at the King's coming in, there were complaints of some eight or nine Monopolies then in being, they are now said to be multiplied by so many scores."

Bacon himself was conscious of the anger aroused by this multiplicity of patents, and was anxious to cancel some of the more obnoxious before Parliament met on 30th January, 1621. The King, however, refused to budge, and left the matter to the decision of his Council; try how he might, Bacon could not infuse his own anxiety into the members of the Council. When Parliament met, the patents were still in force.

On 5th February the House of Commons appointed a committee of grievances, which fell on a patent granted to one Mompesson. Coke was a member of the committee, and reported that this patent was "an exorbitant grievance both in itself and in the execution." Bacon had certified it as both legal and convenient. Thus he received his first wound.

James, alarmed by the truculence of the Commons, made an involved speech to Parliament "to satisfy the Upper House that he was not guilty of these grievances which are now discovered, but that he grounded his judgment upon others who have misled him." James thus publicly threw on Bacon the blame for the Mompesson patent. The Lord Chancellor's enemies gathered themselves for the attack.

A few days after James's declaration, Sir Robert Phillips reported to the Commons that two petitions had been received, "charging the Lord Chancellor with corruption of his office." The first came from one Awbrey, pleading that he had made

Bacon a present of £100 borrowed, with difficulty, from a usurer, in order that a suit which he had pending before the Lord Chancellor might be accelerated, that Bacon had accepted the money through the hand of a third person, and that he had been given a message assuring him "success in his business."

The second petition, of Edward Egerton, pleaded that he had made Bacon a present of a piece of plate, valued at £52, "as a testimony of his love"; that he had further "procured £400 and sent it to his Lordship . . . as a gratuity for what my Lord had done for him when he was Attorney-General," and that Bacon had "returned him thanks, saying he did not only enrich him, but laid a tie on him, to assist him in his lawful business."

The House of Commons, having examined the contents of the petitions, at once resolved that these complaints against Bacon "should be drawn up . . . and . . . related to the Lords, without prejudice or opinion, at a conference." On the same day James sent a message to the Commons protesting sorrow at the complaints against his Lord Chancellor; although "it had always been his care to advance the best men to places . . . no man could prevent such accidents." His Majesty proposed that a committee, composed of twelve members of the Commons and six members of the Lords, should probe the whole matter.

Meanwhile, Sir Robert Phillips was active in unearthing new counts against Bacon. Soon no fewer than twenty-two counts were preferred, by which it was alleged that Bacon had benefited to the extent of about £9,000. The shock of so sudden and so overwhelming a disaster completely broke Bacon's health. Unable to appear before the Lords to answer the charges against him, he besought them by letter to keep an open mind concerning his case, to give him time to prepare his defence, and allow him to call his own witnesses, to cross-examine those called by his accusers, and to answer the complaints against him one by one "according to the rules of justice."

When he learned in detail the charges against him, however, he realised that defence was hopeless. Nevertheless, as he recovered from his illness, his natural buoyancy reasserted itself,

and he wrote to the King beseeching that "the cup may pass from him," arguing that James, by one means or another, could certainly quash the proceedings in Parliament. Surely, he declared, a humble submission and the surrender of the Seal would be punishment enough. He even went so far as to write: "Because he that hath taken bribes is apt to give bribes, I will go further and present your Majesty with a bribe. For if your Majesty give me peace and leisure, and God give me life, I will present your Majesty with a good history of England and a better digest of your laws."

Soon after this letter he sent his submission to the Lords. He attempted no justification. "It resteth therefore," he continued, "that, without fig-leaves, I do ingenuously confess . . . that . . . having understood the particulars of the charge . . . I find matter sufficient and full, both to move me to desert the defence, and to move your Lordships to condemn and censure me. Neither will I trouble your Lordships by singling those particulars which, I think, may fall off. *Quid te xempta juvat spinis de pluribus una?*" He proceeded then to tell their Lordships a long story from Livy, striving to show that a slight penalty may well prove as useful deterrent as a savage one. This remarkable document ends with a prayer that "God's Holy Spirit be amongst you."

After this submission had been read to the Lords, silence fell on the House for several minutes. Then the Lord Chamberlain spoke. "The question," he said, "is whether this submission be sufficient to ground your Lordships' judgment for a censure without further examination." This commonplace remark broke the tension, and the House debated earnestly, finally deciding that there was "no word of corruption in his submission." They resolved not to proceed further without Bacon's express confession of corruption. He sent it briefly and immediately.

When the House had heard it, as it pitifully set out each sum of money he had received from each suitor, they sent a committee of twelve Lords to wait on Bacon, to inform him that "they conceived this to be an ingenious and full confession," and to ask him if he would stand by it. "My Lords," replied the fallen

man, "it is my act, my hand, my heart: I beseech your Lordships to be merciful to a broken reed."

The twelve Lords carried back his answer, and the House petitioned the King to sequester the Great Seal, which was given to Lord Chief Justice Sir Robert Hutton. Next Bacon was summoned to receive his sentence, but fresh illness prevented this humiliation. Accordingly the Lords, having agreed *nemine dissente* that "the Lord Chancellor is guilty of the matters where-with he is charged," proceeded to disagree on his punishment. His enemies wished to degrade him from his rank, but his friends opposed them. But not even his staunchest allies could continue to protest his worthiness to hold office, and even the Earl of Arundel, a close friend, confessed "his offences foul, his confession pitiful." When the final division was taken as to whether "these punishments above shall be inflicted on the Lord Viscount St. Alban or no," only one peer voted against the motion.

Bacon refused to be dismayed by his ruin. He set about saving a competence from the remnants of his fortune, and implored James to employ him privately. He wrote, full of hope, that "your Majesty, that did shed tears in the beginning of my troubles, will, I hope, shed the dew of your grace and goodness upon me in the end. Let me live to serve you; else life is but the shadow of death to your Majesty's most devoted servant."

Despite the fact that the prior royal claim to £40,000 worth of his property protected Bacon from his creditors, the disaster to his finances was complete. York House and Gorhambury went, and their owner hid himself in chambers at Gray's Inn, whence he had set out on all his adventures. That society, of which so few months before he had been the principal ornament, received him in his adversity, and comforted him with the loyalty and society of its members. When most of his former friends and clients deserted him, his Inn restored him, without passing judgment or comment, to his accustomed place among the Benchers.

He lived on for five years, devoting himself to his literary and philosophic work. James I died in the spring of 1625; a year and

some few days later his Lord Chancellor followed him to the grave.

Two questions remain to be answered: What degree of guilt can be assigned to Bacon? And, if he was guilty, how came it that a man of such transcendent ability could be tempted by the paltry amounts which he admitted to have received?

Students of history appear to be agreed that Bacon did little more than follow the custom of his age in accepting "presents" from suitors. "If I were to begin to punish those who take bribes," James I once remarked to the Spanish Ambassador, "I should soon not have a single subject left." A large part of Bacon's legitimate receipts as Lord Chancellor came from the "gratifications" paid to him by those who had received his verdict in their lawsuits. He certainly received such monies in the normal course of business, as all men might know. He also certainly accepted money from those whose suits were pending, but—as he himself pointed out—it has never been shown that such gifts ever influenced his judgments. No complaint was directed against his administration of justice; had such complaints been feasible, it is certain that they would have been made.

Why, then, did the Commons so press for Bacon's condemnation, and the Lords, for the most part, support their insistence? The malignity of such enemies as Coke was not enough to inspire so great unanimity; and although the best opinion of the age was beginning to consider the acceptance of "gratifications" from litigants as an evil, the general conscience was not profoundly stirred in the matter. Most of the corruption to which Bacon confessed was the result of a system in which Members of both Houses indulged—they could not pretend intense surprise or indignation when the details of his transactions were made public.

The truth, I imagine, is that the Commons were highly and justly incensed at Bacon's policy concerning monopolies. He constantly declared himself the King's Minister, responsible to James alone, and thus in no way answerable to Parliament. His constant expansion of the royal prerogative and his policy of acting as the King's creature were obnoxious. The passions which

were to remove James's son from his throne were already awakening, and Bacon fell victim to Parliament's desire to control the Ministers. Vaguely the Commons felt that in his disgrace they vindicated the doctrine that Ministers were responsible to them and not to the King in person.

Concerning Bacon's character discussion will never cease. This biographer condemns him as an intellectual genius devoid of moral scruple; that historian defends his conduct in all circumstances by means of elaborate casuistry. Perhaps the most convincing explanation of his peculiarities follows from the suggestion that he chose wrongly when he decided to enter public life.

Bacon ever lamented the fact that he had chosen an active life, and had not confined himself to science and philosophy. How far these protestations were sincere it is hard to judge. Many successful men are wont to declare that they wish they had followed some other, generally a less conspicuous, occupation. They know, however, when making such confessions, that their sincerity will never be tested by circumstances.

During his twenty years' suit for advancement the fibre of his conscience certainly coarsened. Disappointment, long enough continued, will drive most men to methods which once they would have scorned. Bacon himself wrote that "sometimes by indignities men rise to dignities"; and his career shows how thoroughly he applied the maxim. Had he not decided to make himself a "politique," had he chosen to devote himself entirely to those philosophic "pleasures of the intellect" which he classed higher than all others, he might have lived a blameless life, and enriched learning and literature thrice as much. He would certainly have been happier. An ambition foreign to his real character entered his heart, consumed his years, and finally broke the career which he had been at such pains to build.

He himself, during the "long cleansing week of five years' expiation and more" which followed his fall, recognised the justice of his punishment. "I was the justest judge that was in England these fifty years," he wrote, "but it was the justest sentence in Parliament that was these two hundred years."

MRS. MAYBRICK

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FLORENCE MAYBRICK was by birth American, and married James Maybrick in 1881 at the age of eighteen. He was then forty-two. The marriage lasted eight years, so that she was but twenty-six when she played the foremost part in one of the memorable trials of the Nineteenth Century.

Maybrick was a cotton merchant, and in 1889 had been for some years settled at Liverpool. He and his wife had many acquaintances, and their reputation was that of an average married pair.

Apparently no organic disease troubled the husband. He was a healthy man of fifty, but for some years, even before his marriage, he had been taking drugs as a tonic, and had apparently boasted of their dangerous nature.

Towards the end of March, 1889, Mrs. Maybrick went to London, and there for some days she stayed with a man named Brierley as man and wife under the name of Maybrick. There was no evidence that her husband ever knew or suspected this incident, which seems to have been an isolated one. He did, however, resent Brierley's attentions to his wife at the Grand National on 29th March, so much so that on his return home he made a violent physical assault upon her. In consequence, she prepared to leave him, but friends intervened, and they were, or appeared to be, reconciled.

In April, Maybrick went to London to consult a doctor about his health, a constant and increasing cause of worry to him. He stayed with his brother, who told him that Mrs. Maybrick had written saying that her husband was taking a white powder which she thought was strychnine. His comment was that the statement was a "damned lie." He returned on 22nd April. The next day or the day after Mrs. Maybrick purchased some fly-

papers, which contained arsenic. There was no concealment. The chemist knew her and they were sent home. She used them by soaking them in water in her bedroom. This was done openly; at least two of the maids, for instance, saw them at the time. After the death, a bottle containing a weak solution of arsenic was found, presumably the result of the soaking. Mrs. Maybrick said that she wished to use the solution as a cosmetic. This explanation recalls the similar explanation in Madeleine Smith's case in 1857, and apparently it was then thought by many women that the use of arsenic in this form improved the complexion. It is not necessary to consider whether the belief was justified or not.

On 27th April Maybrick vomited, and attributed it to the medicine which had been sent to him from London. He then went to a race-meeting at Wirrall and got wet. He was undoubtedly very indisposed that night while dining with friends. On the 28th he was gravely ill. His doctor attributed his illness to the medicine already mentioned, which contained strychnine. During the day and on the 29th he improved.

It was on the 29th that Mrs. Maybrick made a second purchase of fly-papers from another chemist, equally openly. These may or may not have been used. For a time there was a number of these papers in the house until the maids destroyed them.

The doctor came again on the 30th and diagnosed chronic dyspepsia. There was no cause for alarm, and Mrs. Maybrick was taken to a dance by a brother-in-law. On 1st May, Maybrick was well enough to return to business, but he decided to have lunch at home. The cook prepared some "revalenta," which she put in a jug given to her by her mistress. He lunched off this for two days, and complained that it made him sick. There was evidence that the jug contained arsenic. Nevertheless, the doctor pronounced that his patient was better. On the 3rd Maybrick was ill again, and thenceforward Dr. Humphreys was in constant attendance, reinforced on the 7th, at Mrs. Maybrick's suggestion, by Dr. Carter. She also sent for a nurse.

All this time Mrs. Maybrick was naturally in charge. She

controlled the household, attended to the sick man, and interviewed the medical men. If the patient was taking arsenic, apart from a minute medicinal dose, he was either dosing himself unknown to the doctors or else he was being murdered by his wife under the pretence of nursing him. What makes the position more strange is that Edwin Maybrick, his brother, had come to stay on 25th April. One would have thought that an attempt to murder would not have begun when there was more than the usual chance of detection.

No suspicion can possibly attach to him or to the domestic servants.

On 7th May, the nursemaid, Yapp, saw her mistrees apparently pouring medicine from one bottle to another. She seems to have become suspicious, and next day she searched and found a packet labelled "arsenic." Who obtained this, and when and where, was never proved. The discovery satisfied her that things were wrong. She told Mrs. Briggs, a friend of the family. Mrs. Briggs told Edwin and telegraphed for the other brother. Yapp seems to have disguised her opinions admirably, for it was to her that Mrs. Maybrick gave a letter to post that afternoon. It was addressed to Brierley. Yapp opened this letter upon a plausible pretext and handed it to Edwin. It contained the significant words, "He is sick unto death," and added that the doctors took a grave view of the case. In fact, they expected a speedy recovery.

The nurse arrived at 2:30 that afternoon, and from her arrival Mrs. Maybrick was excluded from attendance on her husband.

Next day, the 9th, Mrs. Maybrick told Yapp that she was being blamed for Maybrick's illness. The patient was worse, and a test for arsenic was made. None was found. At midnight Mrs. Maybrick came into the bedroom and handled a bottle of meat-juice. The nurse was suspicious, and preserved it. That was afterwards found to contain arsenic. Mrs. Maybrick admitted that she had added a powder at her husband's request, she said, not knowing what the powder was.

On the 10th her brother-in-law found her, as he thought,

changing medicine. He kept the bottle, but on analysis nothing poisonous was found. It was on this day that, as she was persuading him in the nurse's presence to take his medicine, Maybrick said that she had given him the wrong medicine again. Mrs. Maybrick replied that he never had had a wrong medicine. Later he said to her, "Oh, Bunny, Bunny, how could you do it? I didn't think it of you"; and she answered, "You silly old darling, don't trouble your head about things." Of this conversation it has been suggested that it referred to the giving of poison, and again to the adultery which had taken place. The terms seem too mild for either hypothesis, and probably the conversation has no significance.

It was on this day that Maybrick quite definitely began to sink. His relations were summoned, and early next morning the doctors abandoned hope. He gradually sank and died at 8:30 in the evening. His last illness had lasted eight days. Mrs. Maybrick fainted before his death, and remained unconscious for many hours. At once search was made for arsenic, and it was found in many places. Traces were found in Mrs. Maybrick's garments. The packet already mentioned was in her trunk, and arsenic was found in the dead man's belongings, in the house, and also in the medicines, where, according to the prescriptions, there should be none, and, according to the chemists, there were none when they were compounded. His numerous bottles of medicine at the office contained no arsenic, but the jug he had taken there contained traces. The post-mortem showed inflammation of the stomach and intestines, and rather less than half a grain of arsenic was found in the body.

Until the 14th Mrs. Maybrick was too ill to be charged, but on that day she was arrested. Popular opinion was vehemently against her. At the police court she was defended by Mr. Pickford,¹ on whose advice she reserved her defence, and on 14th June she was committed for trial.

That year the Assizes at Liverpool opened on 26th July, with

¹Afterwards Lord Sterndale, M.R., a very learned judge.

Stephen J. presiding. The Grand Jury duly returned a true bill. On 31st July the trial opened, and lasted until 7th August. The jury were absent for about three quarters of an hour. On their return she was found guilty.

I do not propose to comment at length on the trial. The counsel engaged were men of the greatest eminence, and the trial was conducted with fairness. A great deal has been made of the fact that Mrs. Maybrick made a statement. The law then did not permit an accused person to give evidence on oath, but she had, and would to-day still have, the right to make a statement. Forensic opinion was indeed against the exercise of this right, save in exceptional cases. Mrs. Maybrick's statement certainly did her cause no good, but it is not, I think, on the whole, just to criticise Sir Charles Russell. An advocate's duty is to put his client's case, but, after all, the case is not his but his client's. If a client insists upon a course which is not improper but may be injudicious, counsel should, and does, advise against that course; but if the client insists, then he and not counsel is *dominus latis* and must have his way. In extreme cases counsel may decline to continue, but it would be unthinkable to do so during a trial for murder merely on a point of tactics. We do not know whether Sir Charles advised for or against the making of this statement, but assuming (as in all probability was the case) he was against that course, yet if his client insisted it was her right.

In his final speech Russell took this line. After reminding the jury that the case must be proved beyond reasonable doubt, he challenged the hypothesis that Mrs. Maybrick had a motive to murder or was such a person as would murder her husband. Her whole behaviour contradicted such a hypothesis. Death was due to gastritis or gastro-enteritis. It might have a natural cause, and the evidence was inconsistent with arsenical poisoning. Moreover, it was virtually impossible for her to have administered the arsenic. Maybrick took arsenic. The fly-papers had nothing to do with the case, and the powder came from Maybrick. If, therefore, arsenic was used, it was not by the prisoner.

The summing-up was fair and impartial. It certainly contained

slips on many details, though the Judge was a master of detail, but none of the slips was more than incidental. No reliance can be placed upon the fact that some years before the Judge had had a serious breakdown. It is true that he was never the same man again, but he had recovered sufficiently to administer justice properly and acutely both before and after this trial, and his subsequent unfortunate illness and retirement can have no bearing on the question.

Popular opinion is ever fickle. When the magisterial hearings began, the prisoner's advisers despaired of an impartial trial at Liverpool, so fiercely was emotion stirred against her. But when the Judge had passed sentence of death, his stately progress from the Court was marred by the hisses of the same people disappointed at a result which they had eagerly coveted but a few weeks before.

Mrs. Maybrick was at once reprieved, and after many years' imprisonment she was released. She soon went to America, but did not survive for many years.

Nearly forty years have passed since then, but Mrs. Maybrick's guilt is still discussed and questioned. There can be no doubt that her case must be both unusual and important, since it has retained its interest for the public, in spite of the many interesting and notorious cases which have been before the Courts from time to time since her day.

The reasons for the sustained public interest are not easy to analyse. The position of a wife charged with the murder of her husband, though happily rare, is by no means without precedent. Even the fact, if it be the fact, that she was administering the poison under the cloak of devotion, that the tender nurse was the calculating assassin, is not unknown in other cases. But she and her husband were well known. Their reputation was that of an affectionate pair, and it excited the interest of the vulgar to learn in the course of the trial that in fact their married life was not so untroubled as appeared on the surface, and that, whether he knew it or not, she had been unfaithful to him. But for that lapse she might have had the sympathy of the public from the start, instead

of the belated reaction which marked the closing stages of her trial.

The toxicologist certainly is attracted to this trial. It marks a stage in the history of the use of arsenic for poison. It is true that arsenic is one of the most common poisons to which murderers have recourse. Indeed, distinguished physicians have been heard to complain of the wearisome repetition of arsenic as a means of compassing death. At first, when arsenic was a new drug, experts were confounded. They were almost helpless as an aid to justice in the presence of a Mme. de Brinvilliers. By the second half of the Nineteenth Century chemistry had come to the aid of the physician. Gradually the experts were attaining the knowledge which made them so skilful and precise in such cases as those of Seddon and Armstrong.

Madeleine Smith had been tried in 1857 on a charge of murder by arsenic. There could be no doubt as to the cause of death, since 82 grains were found in the man's stomach. The expert in that case was hardly necessary, but he did state his opinion as to the fatal dose and the period that it would take to bring about death. His view, which reflects the best scientific knowledge of his day, was that four to six grains constituted a fatal dose and that death might be delayed as long as two or three days after its administration.

It was clear from the evidence that Mrs. Maybrick was deprived of the opportunity of administering poison in the early afternoon of 8th May. Her husband died on the 11th. Dr. Stevenson, who was the great authority in 1889, said in his evidence that a fatal dose, which was then known to be two grains or even less, generally killed in six to twenty-four hours, and he took twelve hours as a fair average. He added that a repetition of small doses would take longer. But if, as the evidence established, the accused could not have administered any arsenic after 8th May unless she evaded the vigilance of three trained nurses, warned to prevent it, the length of time before Maybrick died was a serious obstacle and one which was not really faced. I am aware of the evidence as to the subsequent tampering, but the attempt, if it

was an attempt, did not succeed. Indeed, the patient grew better until the 10th, when he began to sink. In the light of the evidence in Armstrong's case the difficulty, serious in 1889, would not now be acute. Sir Bernard Spilsbury was prepared in Armstrong's case to admit that the decisive dose might be administered as long before the death as five to eight days, even where the patient had no organic disease. We may, therefore, in considering the case now, assume what we could not have assumed in 1889, that the death may have been due to an administration on or before 8th May. We are no longer driven to surmise an administration after that day as to which there was no evidence—in the face of the elaborate precautions to prevent such a misdeed.

There can be no real dispute as to the cause of death. Maybrick died of acute inflammation of the internal organs. Arsenic was found in his body. But two circumstances operate to minimise the importance of these facts. One was that the deceased was given to the taking of drugs, dangerous drugs, including at times arsenic itself. The other was that during his last illness his medical advisers rang the changes on a large number of medicinal preparations, some of them containing highly dangerous ingredients, including arsenic. Many thought that, though the arsenic prescribed was not a large quantity, neither was that which was found in his body, and the gastric condition—the most prominent and important symptom found at the post-mortem examination—might plausibly be attributed to the ill-usage to which his internal organs had been subjected for so long.

The prosecution relied upon the purchase of arsenic in the form of fly-papers—the way in which Seddon may have obtained his supply. But the curious fact is that there were larger quantities of arsenic in the house, though there was never any suggestion that Mrs. Maybrick had purchased anything but fly-papers. If she had obtained the supply, there would have been no need to buy the fly-papers—whatever her reason for wanting arsenic. Those that she did buy she purchased openly from people who knew her. She used some and did so openly in the house, and a bottle containing a weak solution of arsenic, obviously derived



FLORENCE MAYBRICK *and her husband* JAMES MAYBRICK



BATTLECREASE HOUSE, *Alburgh, Liverpool*
The Home of the Maybricks

from soaking them, was found. The remainder were left until the maids destroyed them. Mrs. Maybrick said that she wanted them as a cosmetic. Whatever the value of arsenic for such purposes, there is no doubt that many believed it was useful for the complexion, and consequently there is no inherent improbability in her explanation. But what about the large quantity of arsenic not attributed to her? It is at least not unreasonable to think that Maybrick himself had bought it. He was given to dosing himself, and it may well have been that he had bought it for that purpose, or for some other purpose, and was using it. Once that becomes an admissible inference, there is a probable explanation of all the awkward circumstances, and it puts Mrs. Maybrick's statement in Court in a much more favourable light.

I am not unmindful of the fact in Vaquier's case that, though the prosecution only traced to the accused a small quantity of poison, after his conviction Vaquier revealed a large store of the poison hidden on the premises. How and where it was obtained could not in that case be discovered. But the circumstances were different. The discovery was due to the accused, who alone knew of its existence. In the Maybrick case there was no ground for suggesting that Mrs. Maybrick had obtained it. Still, all things in a house are, in a sense, in the possession of the housewife, and there was a great deal of arsenic in that house.

There was one incident of tampering much relied on by the prosecution. Evidence was given that Mrs. Maybrick had been doing something with a bottle of meat-juice, and this bottle, carefully kept, was analysed and found to contain arsenic. Mr. Davies, the analyst, thought that this had been added in the form of solution. There was, he said, no solid arsenic there, and, further, the specific gravity of the meat-juice in that bottle was less than that from a bottle freshly bought. Something was added to that bottle. The accused admitted it. She said that her husband had given her a powder to put in his food. She was then under suspicion, but she yielded to his entreaties. She went into the inner room and added the powder, but, upsetting the bottle by accident, she had added water to make up the quantity. One wonders

why, seeing that the loss of even a whole bottleful meant little to persons of their means. Moreover, it is extremely doubtful if water could be added without the fact being obvious immediately. But the great objection to the truth of her explanation is that, though arsenic is soluble, it is not readily soluble, and it is therefore highly improbable that, if it were added as a powder, all the grains would or could have been dissolved.

The contents of the bottle were, indeed, never used. But if something was added, added by Mrs. Maybrick, and if that something was arsenic, added as a solution, then, Mrs. Maybrick's explanation being set aside as inconsistent with the facts, the prosecution had gone far to discharge the burden of proof. It would not, of course, establish guilt, but if she had wilfully added arsenic to his food, which was not given to him because of the action of others, might she not have done it on occasions when there was no one to watch and no one to intercept the food on its way to the patient? One must not forget that arsenic would account for the symptoms and would cause death, and that arsenic was found in the body after death.

To a lawyer, the case is of interest as one involving serious and complicated issues of fact. The Counsel for the Crown were men of eminence and ability. Mr. Addison became a respected and able County Court Judge in London. Mr. McConnell was afterwards Chairman of the London Sessions, and though Mr. Thomas Swift, who was highly esteemed in Liverpool, never attained that position in the law which his own abilities merited, he is remembered to this day with affection both for his own sake and that of his son, the present Mr. Justice Swift. Formidable though the Counsel for the prosecution were, they were overshadowed by their opponents. Sir Charles Russell (Lord Russell of Killowen) was then at the height of his fame; he was assisted by Mr. Pickford, then a "local" at Liverpool, who died recently as Lord Sterndale, Master of the Rolls.

Russell never relaxed his efforts on Mrs. Maybrick's behalf. The first Sir George Lewis, who indeed ought to have been in a position to know, is said to have stated that Russell was actuated

not by a belief in her innocence, but by a conviction that her guilt was not established. I had at one moment, when planning this examination of the case, thought of asking Sir George's son, who succeeded to his practice and reputation, for an authoritative statement, but death has prevented the inquiry. Nor probably should I have thought it right to make it. The case has not passed deeply enough into history. It may have been that the great advocate, believing that on the evidence the verdict was wrong, deemed the result in some way to be imputable to him and so endeavoured to put his client in the position, as far as was possible, which in his view she should have been placed by the verdict. But I cannot think that this is the explanation. If his view was that she was really guilty, but not proved to be such, then I cannot see why he should have striven so earnestly and so long, not to save her from the gallows, but to secure her release, seeing that, in such a case, she was only technically an innocent woman.

However, I cannot myself resist the conclusion that there was evidence upon which she could have been found guilty. Lord Russell died before the institution of the Court of Criminal Appeal but he was familiar with the principles upon which appeals are decided. Even if he disagreed with the jury's decision, he must have recognised that it was impossible to contend that there was not sufficient evidence, if the jury accepted it. He had fought the case frankly on the assumption that there was a case to answer. He made no attempt to induce the Judge to bring the case before the Court of Crown Cases Reserved, as he might have done. I feel certain that he was convinced that, whatever the evidence might indicate, she was in truth and in fact an innocent woman, and in that belief thought it his duty to aid her as a man, when as Counsel he had no longer any opportunity to help.

No one knows what Pickford thought. Once at a Liverpool dinner on the Northern Circuit Sir Leslie Scott said to him, "I never heard you express an opinion upon the guilt or innocence of Mrs. Maybrick." "I never did," was the reply, and that was all he would say.

The Judge, too, died without expressing an opinion. He did,

indeed, mention in a book that it was the only case referred to the Home Secretary of those which he tried about which there could be any doubt as to the facts.

What, then, is the answer that should be given to the question: Was she guilty? We can now approach the case without any feeling which might prejudice our judgment, but also without the advantage that is gained by seeing and hearing the witnesses. A study of the evidence is no adequate substitute for the gradual expression of that evidence by witnesses whom we can see and hear. Gestures, changes of intonation, pauses, and all those incidents which enable a bystander to judge of the truth or materiality of a reply, are not reproduced in a shorthand note.

On the whole, I think that if I were a juror in a civil action, judging by the probabilities, I should have found against her. But on a criminal charge, where a reasonable doubt entitles to acquittal, I should have acquitted. But if I had to consider the case on appeal, I should hesitate very long before I could see my way to disturb the verdict.

In any case, whatever one may think, one has to face the question: How did the arsenic come to be in the medicine?

MAJOR STRANGWAYS

MAJOR STRANGWAYS

FEW nowadays have heard of pressing to death as an incident of English legal procedure. To those who have not it will be a surprise to learn that in the days when judges ruled, and men boasted that torture found no place in the administration of justice in England, it was nevertheless possible for an unconvicted man to be sentenced to a degrading and barbarous death merely because he refused to repeat a time-honoured phrase.

We are accustomed to think of trial by jury as a peculiar and peculiarly satisfactory characteristic of English justice. But it was not always the only, nor even the accustomed, method. Our forefathers in Anglo-Saxon days believed in compurgation and the ordeal. The Normans introduced trial by combat. None of these methods was found satisfactory. Indeed, in many instances a summary proceeding uncommonly like lynch law was adopted. In administrative matters the investigation by inquest had early been tried. Domesday Book was compiled by a proceeding resembling an inquest. Within a hundred years of the Conquest the true inquest made its appearance, and when the Lateran Council forbade the ordeal the administrators of justice found the new method available and gladly adopted it. But in those days a change of procedure was not to be accomplished by a mere order of the Judge or a rule of Court. An inquest was a proceeding authorised by the King, and for a time at least, unless the King were feed, there was no right to adopt this procedure.

As it was more just, prisoners charged with felony naturally began to prefer the method, but when it became the only practical mode of trial, judges appear to have shrunk from imposing it upon accused persons. It originated in a boon conferred upon those who were prepared to pay for the privilege, and was not the ancient and accustomed course. Consequently, without the

prisoner's consent, the trial could not proceed. This in course of time would cause a deadlock so soon as all other methods had become obsolete. But the judges were not there, after all, to see the law stultified.

The prisoner could not be tried without his consent. Very well. One can imagine how the procedure developed. A man awaiting trial was normally under arrest. The recalcitrant prisoner could therefore be detained. But this course was undesirable. Prisoners were not secure and gaolers were not paid. No one would wish to keep the rebel for long. So mere detention would hardly meet the case. Unpleasant detention might, and so rigorous treatment as to the place of confinement and diet would be obviously a means of constraint. A dark, noisome underground room, shackles, insufficient and unpalatable food to eat, and noisome water to drink would soon change the mind of all but the very stubborn. Trouble then would only arise with an unusually obstinate man.

Under Henry IV the judges seem to have taken a stronger line. Whether they were more impatient or there were more prisoners of the stiff-necked variety one cannot say. But the judges then began to direct that physical means should be adopted to enforce a speedy consent. There were several devices—one was to tie the prisoner's thumbs, and by twisting the cord, or suspending him by it, compel him to consent to end the torment. Another, which became the normal course, was to direct the infliction of the *peine forte et dure*. The prisoner was to be pressed to death unless he sooner revised his views and elected to plead. The old method might take weeks. This at most could only last a few days.

This grisly device can be imagined from the words of the order in Major Strangeways' case.

The Court directed:

“That the prisoner be sent back to the place from whence he came and there put into a mean room where no light can enter, that he be laid upon his back with his body bare, save something to cover his privy parts, that his arms be stretched

forth with a cord, one to each side of the prison, and in like manner his legs shall be used, that upon his body shall be laid as much iron and stone as he can bear and more, that the first day he shall have three morsels of barley bread and the next day he shall drink thrice of the water in the next channel to the prison door, but no fountain or spring water, and this shall be his punishment till he dies."

We cannot now find any justification for this terrible treatment of an unconvicted prisoner. The law presumes a man is innocent until he pleads guilty. Granted that, as he was accused of felony, he ought not to bring the course of justice to a standstill, nevertheless there should have been less uncouth and inhumane means of compelling a trial. It is true that the sentence was mostly only held over prisoners *in terrorem*, and consequently only a very few refused to plead when they found that the sentence of pressing would certainly be passed. It is true that only one or two in the course of a century would be found to persist until they were brought to the place of torment. It is also true that in the whole history of the law hardly anyone went so far as to undergo the commencement of the ordeal, and but a very small number endured even unto death. Granted all this, there was no real justification for this procedure, inasmuch as Parliament could have intervened and provided for trial notwithstanding a refusal to plead. Not till 1772 did the Statute Law intervene, and then only to declare that a man who refused to plead should be taken to be convicted. It was not till 1827, a bare hundred years ago, that the sensible rule was adopted that a deliberate refusal to plead was not an admission of guilt, and consequently the real solution was to proceed with the trial in order to ascertain whether the prisoner was guilty or not.

It may be asked, Why should a prisoner give all this trouble? There was, of course, a serious reason. In those days conviction for felony entailed forfeiture and corruption of blood. There were exceptions, which, after all, were only exceptions to the rule. Conviction, therefore, meant as a rule a lingering and painful death,

as hanging then was. Pressing to death was worse, but not too markedly more painful. A prisoner who was without hope of acquittal or reprieve knew that, by his condemnation, not only was his life forfeit, but his wife and family beggared and deprived of all hope of inheritance from others. If, therefore, he could steel himself to be pressed to death, then he would die unconvicted. At the price of additional suffering he would purchase for his family his possessions and their chances of succession. In such circumstances a man might well consider whether it was not worth while. But he could always end the matter by consenting to plead, and it is small wonder that most of those who essayed the proof failed to last it out.

The old procedure of arraignment bears the history of procedure in its phrases.

"Prisoner at the bar," said the Clerk of Assize, "hold up your hand.

"You stand indicted by the name of —— for that . . ." and then followed the reading of the indictment, at the end of which the Clerk continued:

"How say you—are you guilty or not guilty?" and the prisoner was then expected to plead.

If he pleaded "Not Guilty," there was a further question:

"Culprit, how will you be tried?" And the accused replied, "By God and my country." To which the Clerk rejoined, "God send you a good deliverance."

The word "culprit" means one who has pleaded "Not Guilty," though in correct usage the word denotes an actual offender. It is believed that the expression "by God" refers to the ordeal, "the Judgment of God," and the latter certainly means "by a jury." Probably at first the Clerk asked which course was chosen by the accused, but doubtless accused persons were loath to abandon an expression which might signify their trust in the help of God. However that may be, the whole expression was essential, and if any part of it were omitted the plea was bad and the trial could not proceed. It was part of the gaoler's duty to instruct the prisoners what to say.

Unless the accused would answer these questions the Court was deprived of the power to determine the issue. The procedure then was to try the issue whether the accused were "mute of malice," i.e., was contumacious, or "mute by the visitation of God," i.e., was physically unable to plead. It is odd that, though the guilt or innocence of a prisoner could not be determined by a jury without his consent, this issue was tried by a jury without his consent even being asked. It was only those who were mute of malice who were subjected to compulsory measures. Major Strangeways was one who defied the Court. He would not plead, and, persisting in his refusal, he was actually pressed to death.

George Strangeways was a man of standing. His father was the head of a Dorsetshire family, and he himself gave promise of an honourable career. He was tall and athletic, his disposition was frank and generous, and his friendship was valued both for its own sake and for the sound advice for which he was noted. He chose the career of arms and served in the Civil War under King Charles. He distinguished himself by his bravery and was promoted Major. He remained staunch to the Royalist cause until it collapsed under defeat. His adherence to the Royalists rendered him liable to sequestration and fine. This risk was no small one, since by his father's death in 1647 he succeeded to the family estate.

Steps had been taken to minimise the risk. His elder sister, Mabellah, had been appointed executrix, and an arrangement was made whereby she took a lease of the estate and gave a bond to her brother to secure payment for the stock. Everything, therefore, passed to her legal possession, and she remained in charge, having even the title-deeds and bonds. In course of time Major Strangeways quitted the field and took up his abode with her. He was not molested, and so they lived for several years. No doubt, having regard to his sister's age, he thought that the arrangement would outlast their lives. Neither of them had married nor seemed to have any inclination to matrimony.

Nevertheless, the unexpected did happen. Living at Blandford

was a respectable elderly lawyer named Fussel. He was a widower, and, meeting Miss Strangeways, he became minded once again to take a wife. She was willing, and Major Strangeways was informed of her intention. He was furious. Probably he considered Fussel was beneath his sister. One may surmise that the bridegroom was of the opposite party, but in any case the marriage meant the end of his plans, which had so far worked well, and in objecting he did not mince his words. He went so far as to declare that, if she did marry the man, he would kill him.

Miss Strangeways was equally determined, and their difference led to a parting, and the parting to the imperative need of a settlement. The marriage necessitated Fussel being a party, and negotiations led to a rupture. Each side alleged that the other was guilty of fraudulent practices and designs, and litigation became inevitable. The scene therefore shifted to London, where both Fussel and Strangeways repaired for advice and counsel.

Major Strangeways' army service led him to take the view that the best solution was to fight it out. He wrote to Fussel, challenging him, as though an elderly peaceable lawyer could meet an experienced soldier in the prime of life on equal terms. It was as unfair as Strangeways no doubt thought a lawsuit was when the party was a lawyer. Fussel took the obvious course of indicting his opponent for sending a challenge, and this sealed his doom. As he would not meet his brother-in-law in open fight, the latter appears to have persuaded himself that he would be justified in killing his enemy.

It was the early part of 1658, though, as the year then began in April, people called it the end of 1657. Fussel had taken lodgings on the first floor of a house near Temple Bar. His living room looked out on the street. Strangeways was staying in the Strand, not far away.

One evening early in February, 1657-8, Fussel came in soon after nine and sat down at a writing-desk facing the window. At this time of the year it was dark. The window was closed and shuttered, but there was a small uncovered portion, through which the light of the room shone into the dark street. Fussel's

The Unhappy Marksman.
OR
A Perfect and Impartial
DISCOVERY
OF
That late Barbarous and Unparallel'd
MURDER
Committed by *Mr. George Strangways*,
Formerly a Major in the KINGS Army,
on his Brother-in-law
Mr. John Fussel an Attorney,
on Friday the Eleventh of *February*.

Together with a full Discovery of the
Fatal Cause of those unhappy Differences which first
occasioned the Suits in Law betwixt them. Also the
behavior of *Mr. Strangways* at his Tryal. The dreadful Sen-
tence pronounced against him. His Letter to his Brother-in-
law, a Member of Parliament. The words by him delivered at
his death; and his stout, but Christian-like manner of dying.

Published by a Faithful Hand.

Ovid. Trist. lib. 5.
Strangulat inclusus dolor, atque cor aestuat intus.

London, Printed by *T. N.* for *R. Clavell* at the Stags Head in St.
Pauls Churchyard by *St. Gregories Church*. 1659.

TITLE PAGE
of an old pamphlet referring to Major Strangeway's crime

face would therefore be visible to a watcher on the outside. He was writing, and his clerk was also busy in the room.

As he worked, he suddenly, for no apparent reason, appeared to lay his head on his work as though he had fallen asleep. His clerk, who seems to have heard nothing, became curious, because his master was not wont to fall asleep at his work. He crossed the room to look, and found that Fussel was dead. He had been struck by two bullets, one on the forehead and one in the mouth. A search afterwards revealed a slug buried in the outer woodwork of the window. It is singular that, even at that hour, no one in the street or houses seems to have heard any report of firearms.

The clerk raised an alarm. A search was made, but the street was dark and deserted. The watch were called. It was obvious that a murder had been committed, and so they proceeded to make arrests. The first to fall into their clutches was a lodger in the house. The evidence against him was merely that he was not in at the time. When he did arrive he was placed in custody. However, he was not detained long.

Mr. Fussel's son by his former marriage was near at hand. He at once recalled Strangeways' threats, and on the strength of this he was at once arrested, though his landlord and the people in the house declared that he had never stirred out. He was taken before a Justice of the Peace and committed to Newgate.

Even the watch could see that the evidence was insufficient. The justice determined to try an experiment which was then deemed an infallible method of detecting a murderer. The next day, on the occasion of the inquest, Major Strangeways was brought from Newgate and made to take the dead man's hand. By all the rules, the wounds should at once have bled afresh. But this phenomenon did not occur, and reluctantly they reconducted the prisoner to Newgate.

The coroner's jury then began to discuss how they could obtain evidence in more practical ways. The foreman conceived the idea of making inquiries of all the gunsmiths in London. He seemed to think it was plain that the murderer acquired his weapon on the day of the murder. A fellow juryman, named

Holloway, thought the suggestion unpracticable. There were too many gunsmiths in London, and they all sold or lent out such weapons every day. Why, he himself was in the trade, and on the day of the murder he had lent a carbine to a customer. The foreman thought that this at least was a clue worth following, and asked who was the customer. Holloway had some difficulty in recalling the name, but at last remembered that it was Major Thompson, who had served in King Charles's army.

This detective work led to the discovery of the evidence. Messengers at once went to Thompson's house, only to find that he had gone into the country. But the authorities seemed to have an unfailing recourse. As Mrs. Thompson was at home they arrested her.

This was the third arrest, but here there was no suggestion of guilt. It was a mere device to bring her husband back, and, however doubtful its legality, it certainly succeeded. Major Thompson returned hot foot, and went before a Justice of the Peace.

His information was startling. He had indeed borrowed the carbine at Major Strangeways' request. His friend had said that he wanted to hunt a deer, and asked him to borrow a gun. Why he could not do it himself is not clear, but probably the indictment for challenging might prevent him. Major Thompson accordingly borrowed the carbine, loaded it with two bullets and a slug, and handed the loaded weapon to Strangeways in St. Clement's Churchyard between 7 and 8 o'clock in the evening on the day of the murder. This was shortly before the murder, and only a few yards away from the spot. And the gun that killed Fussel was loaded with two bullets and a slug.

Furthermore, said Thompson, Strangeways brought back the carbine to him between 10 and 11 o'clock the same night. It would be a curious kind of deer, even under the Commonwealth, that could be hunted in the Strand. This evidence, too, proved that Strangeways was out of doors that night, both at 8 and 10 o'clock, just before and just after the murder.

Strangeways was at once informed of this new evidence. He was at first struck dumb, but when he recovered himself he

acknowledged that the finger of God must be in this. He then admitted that he had concocted an alibi. He had slipped quietly out, leaving a friend in his rooms, whose movements were mistaken for his own. Afterwards he slipped back as quietly, and his friend went away also without making a noise. That friend, whoever he was, must have known more than he should have known but Major Strangeways never revealed who he was. The people at his lodgings had been honest in their evidence.

It seems probable that Strangeways fired the shot himself, but he never admitted it. His admission was merely that it was fired by his direction. Why the report was never heard was not cleared up. Presumably the shot was fired from a house opposite, but that is mere conjecture.

The case was now complete, and Strangeways was committed for trial. He had not long to wait. On 24th February, 1657-8, Mr. Serjeant Glyn, who was Cromwell's Lord Chief Justice, presided at the Old Bailey when Strangeways was brought up to plead.

On his arraignment he did not plead. He began to make conditions. He would plead, he said, if he were assured that he would be shot like a soldier. If not, then he would not stand his trial. Thereby he would at least save himself from death on the gallows and his estate for his friends. The Lord Chief Justice tried to alter his resolution, pointing out the consequences, but in vain. All that the prisoner would say was that whoever fired the gun did so by his direction. He persisted in his refusal, and at last the Court ordered him to undergo the *peine forte et dure*. The 28th February was appointed as the day.

Accordingly he was brought to the Press Yard at Newgate at eleven in the forenoon. He was accompanied by divines and friends. Before he was prepared, he declared that he died as a Christian and at peace with all men. He was then stripped and stretched out on the ground. A request that he should be placed on boards with a projecting piece, so that he should the sooner die, was refused. He desired his friends to add their weight to the iron so as to shorten his sufferings. Then a square wooden frame

was placed anglewise across his body, and iron weights put on it. The pain was terrible, but it seemed that he would live a long time. Therefore his friends stood upon it, and their weight and the fact that an angle of the frame pressed on his chest over his heart soon ended the scene. After ten minutes of unendurable torment he died.

Mr. Justice Stephen, indeed, queries whether the act of his friends in thus mercifully shortening his life was not itself murder. It may be that it was, but the idea occurred to no one then. At that time, and for years afterwards, a felon's friends were allowed to shorten his sufferings by clinging to his legs as he swung from the gallows.

After it was certain that Strangeways was really dead, his body was exposed to the public, and when morbid curiosity was sated, he was handed to his friends for burial.

Thus died a gifted if violent man. He was undoubtedly guilty. Even if he had seduced another to commit the act, that would not alter the quality of his crime, but would merely render two guilty instead of one. Nor was he entitled to choose his manner of dying. He had not allowed his victim any choice, nor had he committed any military offence. He was an ordinary murderer and not entitled to a soldier's death. But, all the same, he was put to death, not because he had done murder, but merely because, being charged with a capital felony, he had refused to plead. It is satisfactory to think that such a consequence is now, and has for many years, been recognised as barbarous and obsolete.

MADELEINE SMITH

MADELEINE SMITH

EARLY in 1928 there died in America an old lady of over ninety who for a few months in 1857 emerged from obscurity to undergo a trial for murder and then stepped back to the tedium of an everyday existence. She was a pretty, vivacious girl, the eldest of the five children of a Glasgow architect. Her parents had given her an education from which she profited, especially in music, for which she had a marked aptitude. Such a girl, living at home, under the guidance of parents who loved her and watched over her, would be, at first sight, the last person to suspect of a double life; the least likely to be accused of murder.

The victim, Pierre Émile l'Angelier, was a young man of thirty. Good-looking, self-confident, and well-mannered, he was not the associate that parents of eligible daughters would choose for them; he was not merely a foreigner, but also a mere clerk in a seedsman's establishment, anxious to improve his status by a fortunate marriage. He had a story which would appeal to a romantic mind. His father was a Frenchman, who settled in Jersey after the Revolution of July, 1830, and had died young. Émile had been sent to Edinburgh, in 1842, to a firm of seedsmen, in whose employment he remained until 1847. Then he went to Paris and lived there for several years, serving in the National Guard through the Revolution of 1848. In 1851 he came back to Edinburgh with the intention of marrying a young lady of position whose affection he had gained, only to find that the lady, believing that he had departed forever, and in any case not believing that he would ever be able to support a wife, was about to marry one of her own countrymen.

The lady's judgment was canny. L'Angelier had made no arrangements for his support and was reduced to destitution. But for a kindly tavern-keeper who allowed him bed and board,

he might well have starved. Eventually, in January, 1852, he found employment at Dundee, exchanging this in the following September for the post of packing clerk with Messrs. Huggins & Co., seedsmen, of Glasgow. An insinuating, pushing young man, he would certainly not find favour in the eyes of Mr. Smith, the architect.

He was active in seeking the friendship of women, with whom he was a favourite, but he had made friends only with very few of the social position at which he aimed when in 1855, in some way or another, Madeleine Smith crossed his path. He admired her and determined to win her. It was not long before he had found a youth who knew her, and effected an introduction in Sauchiehall Street. To do him justice, it was as his wife that he wanted her, and his efforts to win her affection made rapid progress.

Soon a friend told Mr. Smith, and Madeleine's mother took her to task, but though the girl made no secret of her desire to introduce L'Angelier to her family, she appeared to acquiesce. By the end of 1856, Madeleine seemed prepared to accept the addresses of the suitor favoured by her parents. He was an eligible merchant of Glasgow, named Minnoch, none the worse in their eyes because he was a number of years older than their daughter. On 28th January, 1857, he proposed and was accepted, and the family settled down complacently to receive congratulations and make preparations for the wedding, which was fixed for June.

It was therefore probably only a matter of news, at most of slight relief, for them to learn that L'Angelier had died on 23rd March, 1857. But Madeleine knew better. On the 26th, by some unexplained means, she learned that her letters had been found at L'Angelier's lodgings, and she took refuge in a useless flight. Her family missed her, and searched. Minnoch at last found her and brought her home. Even then they did not realise what was in store, but on 31st March, Madeleine was arrested and a statement taken from her. The officials knew and respected her father, and were troubled and anxious, but she bore the ordeal without flinching, the least embarrassed of them all.

L'Angelier's death was a peculiar one. He had twice previously been taken suddenly ill, as he said, after partaking of food given to him by someone. One of these occasions was in February and one early in March. They left him ill and weak, but he went away to recuperate, returned suddenly to keep an appointment, and was found outside his lodgings late on the night of 22nd March, terribly ill and in great suffering. The doctor called was not too despondent, but L'Angelier was convinced that he was in danger of death. He sent for a girl friend, but before she could see him he died. He had not said where he had been or how he had become so ill.

He was a stranger and the last duties were undertaken by a fellow employee. On the 25th March this young man found a number of letters from Madeleine Smith. He communicated with the Procurator Fiscal, but the funeral took place as arranged on the 26th. It was thought advisable to examine the remains. The body was exhumed on the 31st, and at once a vast quantity of arsenic was found in it. There were no fewer than $82\frac{7}{10}$ grains in the stomach—almost enough to kill a platoon.

Inquiries soon revealed that, unknown to her parents and friends, but with the connivance of a maidservant, Madeleine had been in constant communication with L'Angelier. Letters had passed. She had destroyed his, much as Edith Thompson had destroyed Bywaters', but, as in that case, the man had preserved the woman's letters. In this case, it is true, there were several letters of his, but, being found in his possession, it was doubtful whether they were drafts which were not used, or copies of letters which were sent. Eventually most were excluded because they were not proved to be copies of letters sent. The correspondence showed that by April, 1855, he had gained the girl's affection, but not assuredly. Twice in that year she wrote to discontinue the association, but he persisted. By the end of that year her letters had become ardent outpourings of affection, proving that he had visited her clandestinely. Before 1856 was half over, they made it plain that he had gained the extreme proof of her love and that she regarded him as her husband. Indeed, he might well have been

her husband. The maidservant may have been present at a declaration which would have been sufficient by Scottish law, but whether that was so or not must remain uncertain.

Towards the end of 1856 it is plain that he was suspicious of Minnoch and taxed Madeleine with encouraging that suitor's advances. She repudiated the accusations with spirit and her letters remained as ardent as ever. Nevertheless, it seems certain that by November she had begun to reconsider the situation. On 28th January she had decided. Minnoch was accepted.

L'Angelier was not a man to be so easily dropped. He had everything to gain and nothing to lose. In a draft or copy letter written as early as 19th July, 1855, when she had attempted to break with him, he had shown that he was capable of blackmail. "Think," he wrote, "what your father would say if I sent him your letters for a perusal. Do you think he could sanction your breaking your promises?" Would he now give up without a fight?

It became evident that he would not. In one letter she adjured him as a gentleman to keep her secret, but he would not loose his hold. She wrote letters of shame, agony, and entreaty, but after two or three such letters she resumed in a strain affectionate but no longer ardent. The last was posted on the 21st March, and there is a modest, affectionate letter to Minnoch of the 16th. It was suggested that, having failed to secure immunity by her appeals, she had resumed her former style so as to lure L'Angelier to his doom. If he would not go out of her life, then he must be removed.

One cannot hang a person merely on letters which prove a love which has grown cold. There must be evidence of murder. It was soon discovered that Madeleine Smith was in possession of arsenic. It is important to bear the dates in mind. Three charges were made: first, attempted murder on the night of the 19th February, 1857; secondly, attempted murder on the night of the 22nd February, 1857; and thirdly, actual murder by administration on the night of the 22nd March, 1857, causing death on the following day.

The first information her friends received was from herself. On the morning of the 31st March she was talking to Minnoch. Of her volition, she mentioned a rumour that L'Angelier had been poisoned and added that she had arsenic, as she had learned at school that it was good for the complexion.

Inquiries soon revealed purchases of arsenic. It was, however, essential to show that she had arsenic at the right times and also an opportunity of administering it. From that point of view it was a mistake for the prosecution to have relied upon the first of the alleged attempts. Mrs. Jenkins, the landlady, fixed the date by reference to the second illness on 22nd February. The first, she said, was eight or ten days before, i.e., on the 12th to 14th, and not the 19th. He complained of intense pain in the bowels and vomiting. After that he was never the same and always said when asked how he felt, "I never feel well." The date changed; the 19th was fixed by a Miss Perry, who also said that the dead man was to meet Madeleine on that night, but she was not too certain about her dates. Thuau, L'Angelier's fellow-lodger, said that on this first occasion, according to L'Angelier, he was taken ill and vomited in Miss Smith's presence. It may be that this was an illness brought on by arsenic, but there was no evidence that the accused had any arsenic to administer, and very little, if any, evidence that she had an opportunity of administering it.

By the 21st February Madeleine did have arsenic. She went to Murdoch, the chemist who supplied her family. She bought arsenic, of the kind which is mixed with soot, did not pay for it, and had it put to her father's account. She told the shopman that the gardener at their country house wanted it for the rats—which was not true.

On the 22nd February L'Angelier was again ill. This time he was taken with vomiting at four in the morning. The doctor came and the patient was laid up some eight days. If the accused met L'Angelier and had desired to administer poison then, she undoubtedly had the substance. The evidence of a meeting was not conclusive. There was a letter which referred to a meeting, but, like so many letters from ladies, it was merely dated Wednes-

day, without any indication of the month or year, and the post-mark did not enable one to say with certainty what the date of posting was. His landlady certainly said that he had announced his intention of staying in on the Sunday in question, but she could not recollect whether he went out or not. There was a statement of Miss Perry, who said that, in talking to her, L'Angelier said that these two illnesses followed upon his being given coffee on one occasion, and cocoa on another, by Madeleine Smith.

On the 6th March the Smith family went to the Bridge of Allan. That morning she had met Mary Jane Buchanan, a former school-mate. The pair walked along Sauchiehall Street; when passing a chemist's shop, Madeleine asked her friend to go into it with her. There she purchased arsenic and signed the poison book. The purchase was made openly. She remained at Bridge of Allan, where Minnoch was and she was patently anxious that L'Angelier should not be, until March 17th, when she returned to Glasgow.

L'Angelier, on the other hand, had remained at Glasgow until the 10th March, then went to Edinburgh, from which city he returned late on the 17th. He stayed in all day on the 18th, and next morning went to Edinburgh, then on to Bridge of Allan, and stayed there until the 22nd March, when he returned at night.

The second purchase of poison was on the 6th March, immediately before Madeleine left Glasgow. If meant for L'Angelier there was no chance of administering it before she returned. Having returned on the 17th, on the next day she made a third purchase of arsenic as openly as before, and on as false a pretext. Apparently she had written him to meet her at Glasgow on the 19th March, but he did not, because the letter did not reach him in time. The letter was not discovered, but the envelope was. On the 21st March she wrote a letter which was found in the dead man's coat. It read:

Why, my beloved, did you not come to me? Oh, beloved, are you ill? Come to me, sweet one. I waited and waited for you, but you came not. I shall wait again to-morrow night, same hour and arrange-



MADELEINE SMITH

ment. Do come, sweet love, my own dear love of a sweetheart. Come, beloved, and clasp me to your heart. Come, and we shall be happy. A kiss, fond love. Adieu, with tender embraces, ever believe me to be your own ever dear, fond

Mini.

Immediately L'Angelier received that letter he started for Glasgow, walking a considerable distance in apparent health and content. His landlady noticed the improvement. He made no secret of the reason for his return. It was a letter. Somewhere about nine o'clock in the evening he went out, and the last witness who saw him met him about half-past nine not far from Madeleine's house. It was a maidservant at the house of a friend on whom he called at that hour, only to find him out.

At two o'clock in the morning Mrs. Jenkins is roused by sounds at her front door. She goes down and finds L'Angelier in agony, speechless and burning with fever. She takes him in and he commences to vomit. She puts him to bed and sends post-haste for the doctor, who comes as soon as possible. To the patient he speaks comforting words, but the patient is not to be deceived. He knows that he is deadly ill. He asks to see Miss Perry, who hastens to him, but before she arrives he is dead. To no one has he confided where he has been or how he came to take the fatal dose.

That is almost the whole story. It must be added that in her statement Madeleine Smith admitted the purchase of arsenic and admitted that she lied as to her reasons, but because she did not want her real reason known. She had read that the Styrian peasants used arsenic to improve their wind and that arsenic was good for the complexion. What she did not explain was how she got the notion to dissolve it and dab it on her face and arms, since that was how she said she used it—a method from which the experts shrank. In the printed word the peasants had taken it internally. As for the 22nd March, she had not seen or heard the dead man. What he did on that evening she had no notion.

The trial lasted nine days. It was held at Edinburgh before the

Lord Justice Clerk and Lords Ivory and Handyside. Late in the afternoon of each day the bench was visited by other judges, who, on finishing their list, paused for a few moments to watch this moving trial. The jury was composed of fifteen men, the number for Scotland, where the foreman is called the Chancellor of the Jury and the prisoner the pannel.

The most celebrated of the Scots Bar were briefed. The Lord Advocate (John Moncrieff) led Maitland and Mackenzie for the prosecution. The Dean of Faculty (Inglis) led Young and Alexander Moncrieff for the defence. The first five of these six all subsequently attained judicial rank. Alexander Moncrieff died at an early age after a career that proved that he, too, was destined, if he had lived, for high judicial office.

As is the custom in Scotland, the proceedings after the plea and empanelling the jury commenced with the evidence; for six days the witnesses, first for the prosecution, and then for the defence, went into the witness-box, were examined, cross-examined, and re-examined. The greatest medico-legal experts of the day were opposed and the greatest advocates of Scotland exerted all their powers. But throughout this ordeal the centre of interest was the quiet, demure, pretty girl who sat in the dock obviously interested, but not concerned. On the seventh day the Lord Advocate spoke for the Crown, an effort which marshalled the evidence against the prisoner with consummate skill but absolute fairness. On the evening of that day Madeleine Smith was asked what she thought of it. She replied, "When I have heard the Dean of Faculty I will tell you. I never like to give an opinion till I have heard both sides of the question." On the eighth day she was perhaps fully convinced, when the four orations of her advocate ended. It was a speech worthy of the profession and of the occasion. Then came the summing-up, which was not concluded on that day. Apparently the prisoner was disappointed. She called the Lord Justice Clerk "a tedious old man." On the ninth day the end came. The jury retired for half an hour and then gave their verdict. It was a majority verdict, as is allowed in Scotland. On each count, the voting was 13 to 2—the same two who were

for guilty on each charge. On the first count she was acquitted; on the second and third the verdict was "Not Proven." Madeleine Smith sighed heavily and then smiled. Wild cheering arose in the Court and spread to the thousands existing outside. The Lord Justice Clerk expressed his concurrence in the verdict, and the prisoner was discharged, free, but not absolved.

That night she left to join her family and to commence the second part of her life, which has only just terminated.

What is the truth? Accident seems impossible. Suicide is a possibility. L'Angelier's was a mercurial temperament and he often had fits of deep depression. But nothing that he had said or done would indicate that he ever contemplated self-murder. If murder, then, who had a motive? Throughout the case there was no evidence, not even a suggestion, that anyone but Madeleine Smith had any motive which would cause them to kill this young man. So far as she is concerned, it is easy to suggest a motive. She had committed herself to L'Angelier and was engaged to another man. The rejected lover would not give her up. She was in danger of exposure—either by an interview or by production of her letters—and if she were exposed then her engagement would be broken off and she would be forever disgraced. It is certain that she would be in grave risk of being cast off by her family, to whom her conduct would be an almost unforgivable sin.

If he died, that danger would be removed. But would it? Her letters were in his keeping. While he was alive, he would only use them for one purpose, which indeed she dreaded. But after his death, then they would fall into the hands of strangers who would have no cause to keep them secret. Indeed, Stevenson, who found them, deemed it his duty to send them to the authorities, and his action made a prosecution and exposure certain. Still, she was young and inexperienced. We do not know how her mind worked or whether she was a person who would sit down and coolly consider all the alternatives and their consequences. Even persons of experience act impulsively in a crisis. Yet she is entitled to the doubt whether she would deliberately do an act which might, and did, bring about the exposure she dreaded, and also to the

doubt whether, faced with the destruction of his hopes, L'Angelier might not have decided to end his existence.

Looking at the evidence dispassionately, it seems impossible to disagree with the acquittal on the first count. There was only proof that the man had been taken ill suddenly. There was no evidence that they met: no evidence that she had poison if they had met, or that the illness was caused by poison. One might go further and say that the same verdict should have been given on the second charge. It is true that she then had arsenic, but there was no evidence that they met, and no real proof that the second attack was due to poisoning. And as to the third and most serious charge? The evidence was that she asked him to come and he went to keep the appointment. She had poison. He was poisoned by that kind of poison. Did they meet, and did she administer it? The question is one that can only be answered by those who heard the evidence and saw the witnesses. The jury were not satisfied, and we cannot now say that they were wrong.

We are told that happier days were in store for her. She found contentment in a quiet married life, and after long years she at last ended a life which, but for a brief period, was as happy and conventional as that of any other woman of her station in life.

THE DUCHESS OF KINGSTON

THE DUCHESS OF KINGSTON

THE trial of Elizabeth Chudleigh, who was either Dowager Duchess of Kingston or Countess of Bristol, was more than a Society *cause célèbre*. Here was a lady of gentle birth, celebrated for her wit and beauty, who for years had lived in Society as Maid-of-Honour to the Princess of Wales until her marriage, at a mature age, with the Duke of Kingston—one of all others it would have seemed above suspicion; yet, nevertheless, it was alleged that at an early age she had contracted a secret marriage, had become a mother, and was actually a wife when she married the Duke. It is a mystery how she could have kept the marriage a secret, still more inexplicable that she could have for some time cohabited with her husband and given birth to a child while holding an office which she would vacate immediately upon marriage and the conditions of which one would have thought certainly ensured that all her movements would have been well known to very many people under no obligation to keep such an affair secret. Indeed, in spite of proceedings in the Ecclesiastical Courts, it is probable that she would never have been exposed but for her money disputes with the disappointed son-in-law of the Duke.

She was born in 1726, the daughter of Colonel Chudleigh, who was living at Chelsea Hospital. The Chudleighs were a Devonshire county family of some position. One of them, Sir John Chudleigh, a youth of eighteen, was slain at Oxford during the Civil War, refusing thrice-offered quarter. Her uncle, Sir George Chudleigh, held extensive estates in Devonshire. While she was yet young, her father died, but she was carefully educated with a view to occupying a place in Society. When only sixteen, her beauty and witty conversation attracted admiration, and by the favour of Pulteney (afterwards Earl of Bath) she was in 1743 appointed Maid-of-Honour to the Princess of Wales.

It is said that the Duke of Hamilton was attracted and that she received his attentions with favour; but an aunt of hers, Mrs. Hanmer, had formed other designs, and took steps, even going so far as to suppress his letters, to prevent the liking developing into a more serious feeling.

However that may be, in the year 1744 the lady, while on a visit to a cousin named Merrill, who lived in Hampshire, met at Winchester races Augustus John Hervey. He was about her age, a younger son of the Earl of Bristol, and a junior lieutenant on board one of the ships in the squadron lying at Portsmouth awaiting orders to sail to the West Indies.

Hervey succumbed at once, and constantly visited the Merrills; and soon a marriage was arranged, but it was to be kept secret. Hervey had only his pay and an allowance from his father. Elizabeth would forfeit, on a disclosed marriage, her position as Maid-of-Honour.

Laniston, where Mr. Merrill lived, was one of those parishes which had much dwindled in consequence. The only house was Merrill's, and the church was at the end of the garden. It had a parson, but no services were held there, the family using the Church at Sparshot, near by. As Lord Hardwicke's Marriage Act had not been passed, the parties could choose their hour. Mr. Amis, the clergyman, was requested to be at the church at eleven at night on 4th August, 1744. After dinner, the ladies went for a stroll in the garden, Mrs. Hanmer, Elizabeth Chudleigh, and Ann, Mrs. Hanmer's maid. Not immediately, but as if independently, Mr. Merrill, Mr. Hervey, and a friend named Mountenay also went out for a stroll. Mountenay had a wax taper in his hat. They all happened to meet at the church. The parson was there. The lady was willing. So, by the light of Mountenay's taper, the boy and girl were wedded, and as soon as might be, bedded. After a honeymoon of four days, Hervey was recalled to his ship and eventually sailed for the West Indies. Elizabeth Chudleigh, concealing her change of status and name, resumed her duties by the Princess.

It is not easy to account for the wedding, except on the hy-

pothesis (not very intelligible) that it was designedly brought about by the bride's relatives. The spouses were under age, the boy's means were not such as to enable him to support a wife, yet if his parents were made aware of what had been done, without the knowledge, approval, or presence of any of his relatives, he might lose his allowance. She, on the other hand, could not have avowed her marriage and retained her office. Yet if it be true that the lady was listening with favour to the Duke of Hamilton, and only consented to this foolish match by her aunt's persuasion because she was piqued at not hearing from the Duke, unaware that his letters were being intercepted, then the conduct of the witnesses is inexplicable. But they were present at a secret midnight marriage and did not even procure the marriage being entered or the "lines" being written. The Maid-of-Honour might easily have found herself hopelessly compromised without the usual means which wives then had of establishing their status. It may be that the two, in a sudden mad passion, over-persuaded their elders, who perhaps thought that, if repentance followed and no issue, the absence of proof of marriage might be an advantage.

A curious feature is that the six other maids at Laniston were said, and actually appeared, to have remained in ignorance of anything unusual, though the two children occupied the same room for several nights.

Hervey was with his squadron until October, 1746, when he landed at Dover and at once went to rejoin his wife at her house in Conduit Street. Though he sailed again in November, this time for the Mediterranean, his living with his wife then and after his return in January, 1747, seems to have been kept a secret. He remained with her until May of that year, but differences soon developed into disputes, and they parted in anger, never to come together again. But, what is still more surprising, in the same year she gave birth to a boy, who lived for some months. He was born in Chelsea, and the fact of his birth, as also of his mother's marriage, did not leak out. The Maid-of-Honour still attended on her mistress.

Twelve years passed by. The Hon. Elizabeth Chudleigh continued to live as a spinster. She had dealings, purchases and sales, and made contracts, which a married woman could not validly make in those days, though a spinster could. But in 1759 the hope of a position as Hervey's wife began to have attractive features. The then Earl of Bristol fell ill and was like to die. If he did, then the penniless lieutenant of 1744 would be the wealthy Earl of 1759. But if his anger was not abated and he repudiated her claim, what had she to show? In writing, nothing.

In that year Mrs. Amis, who was tending her bedridden husband during the last few weeks of his life, received a call from a lady who proved to be Elizabeth Chudleigh. She was staying at the Blue Bear, opposite the Amis' house at Winchester, and wanted to see Mr. Amis. She was allowed to go to his bedside. She requested a register of her marriage. Mr. Merrill also came to the house, bringing with him a sheet of paper, blank, with a revenue stamp upon it. Mr. Amis doubted, and Mr. Spearing, a local attorney, was brought in to advise. He was sure that a register book was needed, so he brought one, and then and there Mr. Amis entered in the book the burial of Mr. Merrill's mother on 22nd August, 1744, and the marriage of 4th August, 1744.

During the intervals of this episode the ladies had been conversing, and Mrs. Amis received the other's confidences. The first was that it would mean £100,000 to her, it being satisfactory proof of the marriage; then that the union had been blessed by the birth of a boy, but he died. She had borrowed £100 from her aunt, Mrs. Hanmer, for the baby clothes.

When the entries were completed, the book was sealed in a package and handed to Mrs. Amis, to keep until her husband's death and then to give to Mr. Merrill. Though the Rev. S. Kenchen succeeded to his cure of souls, the book remained in Mr. Merrill's hands. A church, serving one household, does not make many demands on a register, so when, in 1764, Mrs. Hanmer died and was buried in the churchyard, Kenchen found no register. Merrill, however, produced this book, and a third entry was made. In 1767 Merrill, too, died, and was buried there. The book,

with the four entries, was thenceforth retained by the clergyman.

Though so much earnestness had been displayed in 1759 to get this written evidence, no use was made of it. The reason was that the Earl of Bristol recovered and the hopes of succession again grew dim. However, before ten years had passed, this hope had become a certainty; Augustus John Hervey was Earl of Bristol. Now was the time to produce the evidence so carefully brought into existence. But no attempt was made to reveal the existence of a Countess. Elizabeth Chudleigh no longer aspired to that coronet. There was another of a more exalted pattern which was within her reach. Negotiations opened for a divorce. The Earl began. His message invited her to supply the necessary evidence. She in her turn refused in emphatic, if coarse, English. It did not suit her purpose at her age—for she was now 43—to expose herself as an adulteress, and then, laid bare to the scorn or raillery of her circle, wait the weary months while the action of criminal conversation against the man selected as her paramour dragged on until the bill for divorce went through Parliament. This course offered her no advantages and no attractions.

She was about to retire on a pension after 25 years' service. That she would lose. If the Duke of Kingston were made defendant, then she would ensure him trouble and expense. If someone else were named, then the Duke might prefer a bride less damaged in the public eye. She wanted, as people of means and position always do, a shorter way which would give her all the advantages of a divorce with none of the exposure or delay. She took advice. What she said to her lawyers we do not know, but if it was what appeared in the pleading in the suit they advised her to bring, then she did not tell them the truth. But the advice was ingenious and seemed sound. If she were to bring a suit in the Ecclesiastical Court against the Earl of Bristol for jactitation of marriage, and he fought it and lost, then he would be ordered never to assert that there was such a marriage, and she would be free.

It may be asked: what good would that do her? She was married, and surely a collusive suit of that kind would not unmarry them.

But the basis of the scheme was this: An Ecclesiastical sentence in matters matrimonial was binding upon all persons and all courts while it remained in force and unreversed. But the only parties who could upset such a decree were the two immediately concerned. It was not, apparently, a case for a nullity decree. Nevertheless, in a jactitation suit, the Court would inquire into the existence of the alleged marriage, and a sentence in her favour would in effect be an adjudication that she never had been married.

In this way she would gain her freedom, without jeopardising her pension or her title to property acquired during the 24 years since her marriage. It must be remembered that in those days there was no divorce in the modern sense, except by private Act of Parliament, and that the Ecclesiastical Courts alone had jurisdiction in matters matrimonial. In August, 1768, she entered a caveat against her husband's commencing any proceedings in the Consistory Court without notice to her. That saved her from any action on his part. On 9th November, 1768, she instituted her suit and a decree in her favour was pronounced on 10th February, 1769.

At last it seemed that Elizabeth Chudleigh had vindicated herself against the suggestion that for years she had been living a lie. She at once married the Duke of Kingston on 8th March, 1769, having first fought the opinion of Dr. Collier, who advised that no power on earth could upset the decree and that her marriage was indisputably lawful. Indeed, he was present at the ceremony.

The Duke was in bad health, and the two spent most of the five years that were left of his life on the Continent. But she had kept in touch with Mrs. Amis. She had found her a husband. Phillips, the Duke's agent, wanted a wife, and Mrs. Amis had consoled herself with him. Soon after the Duke's marriage Mrs. Phillips called on the Duchess, and, in course of conversation, the latter said, "Wasn't it good-natured of the Duke to marry an old maid?" and the two ladies exchanged a meaning glance.

The Duke made two wills, the second more favourable to the Duchess than the former. So far as he could, he gave her a life

estate in all that he had. It is said that on his death-bed she tried to get him to execute a third will, even more in her favour, but when he died the will that existed proved a bitter disappointment to his relatives. He had an only daughter, married to Evelyn Meadows, and their expectations were dashed when they found that the remainder was limited to their three younger children. They and their eldest son got nothing.

The Duchess went abroad, visiting many countries. Eventually she went to Rome. Meanwhile, in England, the lawyers were busy. Meadows instituted proceedings in Chancery in which he charged his stepmother-in-law with undue influence over her husband. As the litigation went on, he came across Mrs. Hanmer's maid, now a widow, Ann Cradock, and soon became aware of the marriage and the register. He could now take decisive steps. On 9th January, 1775, he presented to the Grand Jury of Middlesex a bill charging her with bigamy, and in due course the indictment was found.

There was one objection. The accused was out of reach. Extra-dition was unknown, so that while away she could not be tried. But to carry on the other litigation her presence was imperative. He adopted other means to annoy her. Though she possessed ample funds, her banker at Rome was induced to refuse her payment. He adopted the easy plan of never being in when she called, but that device cannot avail a banker long. She made it her business to see him, and, producing a revolver, forced him to hand over the money which he had no right to withhold from her. She at once hurried to Calais, but there stayed. She was in ill-health and had reflected upon her situation. Was it clear that she could get bail? What was the penalty? Certainly women convicted of bigamy had been put to death.

Therefore, she refused to venture within reach of the law until she had an authoritative pronouncement on these points. This was forthcoming, it is said, from Lord Mansfield, the Lord Chief Justice. However that may be, it is certain that the Court of King's Bench had, on 18th May, 1775, called the indictment into that Court for trial there. But during the delay it occurred

to someone that, guilty or innocent, Elizabeth Chudleigh was a peeress, as the widow of the Duke of Kingston or as the wife of the Earl of Bristol, and accordingly the indictment was, on 11th November, 1775, called up into the House of Lords, the only Court which could try her.

Having been duly fortified by advice, the accused then crossed to Dover. She surrendered herself and was admitted to bail by Lord Mansfield. Eventually a commission was issued on 15th April, 1776, to Earl Bathurst, as Lord High Steward, to preside at the trial, and on that day the proceedings commenced.

The Lords assembled in their own House, and thence, preceded by their attendants and by all the Common Law judges, who had been summoned to attend, they proceeded two by two in reverse order of precedence to Westminster Hall. There the lawyers were assembled. For the Crown appeared the Attorney-General, the Solicitor-General, and three other barristers and civilians. Mr. Wallace led Mr. Mansfield and three others for the defence.

When the Lords were seated, the accused lady was introduced. She fell on her knees and was bidden to rise. Then the Lord High Steward informed her that the death penalty had been abolished. She replied in terms of deep respect, and the indictment was read. She pleaded not guilty, and the numerous audience settled down for the Attorney's opening speech. But much was to happen before he could begin. Mr. Wallace at once made an application, or objection. To prove their case, the prosecution must prove the marriage of 4th August, 1744. But there was a decree of the only competent Court that no such marriage existed. That decree was a judgment *in rem*, binding upon all men and all Courts. The prosecution were estopped from calling evidence to contradict such a judgment, and counsel asked the Lords so to rule. There followed a perfect orgy of argument. One after another five Counsel rose and put the case for the accused upon this point. One after another five Counsel argued the contrary, and three were heard in reply.

The Lords, before deciding, called upon the judges to advise them, and their opinion is still cited as the leading authority on

the two points upon which they pronounced. (Duchess of Kingston's Case 1776, 1 Leach 146.) They made these rulings:

(1). That a sentence in a suit of jactitation of marriage was not such a judgment as bound persons who were not parties to the suit. It was therefore not a judgment *in rem*, and the Duchess's adviser, Dr. Collier, had mistaken the law when he said that the marriage, following the sentence in that suit, could not be challenged.

(2). That even if it were such a judgment as bound the whole world, nevertheless, fraud vitiates all things, and the prosecution were at liberty to call evidence to prove that the sentence was obtained by fraud.

The Lords acted upon the Judge's rulings and called upon the Attorney-General to open. His speech was studiously moderate and courteous and consisted of an outline of the facts.

The first witness was Ann Cradock. Before she was asked any question, Mr. Wallace requested the Lords to inquire of her whether she had received or been promised any benefit of reward. She denied it, and then gave her evidence. She fixed the year as 1744, because she "was certain that it was the same year in which the *Victory* was at Portsmouth," and the month as August, both because of Maunhill Fair and of the fact that the greengages in the garden were ripe and the youthful pair were both fond of them. Her cross-examination was directed to any reward she might have had or expected, but she denied the suggestion. Indeed she added that the accused had offered her an annuity to retire to the North of England, and she went, but found it lonely among strangers, far from her home and relations, and so returned.

Dr. Hawkins, the next witness, raised the question whether he could give evidence. His knowledge was obtained professionally. Lord Mansfield told him that he had no privilege. It was his duty not to proffer information to others, but he could not refuse to assist the administration of justice. He "believed" he was present

when the child was born; certainly he had attended it. The accused had told him that she was married to Hervey, and during the jactitation suit had complained to him that she had not realised that she must take a positive oath that there was no marriage. The ceremony as done, so she said, was such a scrambling, shabby business, and so much incomplete, that she would have been fully as unwilling to have taken a positive oath that she was married as that she was not married. His final observation was that the accused certainly believed that she could marry after the decree.

He was followed by the Hon. Sophia Charlotte Fettiplace, another Maid-of-Honour, who also tried to escape giving evidence. All she could prove was that the accused had told her that she was married to Hervey in Hants, in a summer-house in a garden. Lord Barrington, who followed her, raised the objection that to give evidence he would have to break his word of honour. The legal peers were not impressed, but the lay peers obviously sympathised. During the discussion, the prisoner said that she released him from his word. She desired all the witnesses to say what they knew. She had come from Rome at the risk of her life to surrender to the Court in order to meet the charge. Lord Barrington still objected, and the discussion went on even when the Solicitor-General said that he withdrew the witness. Eventually he was ordered to state what he knew, and he then said that he had not spoken to the accused for over twenty years. She had told him that there was a matrimonial engagement of some kind, but whether it amounted to a legal marriage or not, he was not qualified to judge. He was allowed to leave the matter in that position.

Judith Phillips, widow of Mr. Amis, the parson, gave much more damaging evidence. She told about the register being obtained in 1759 and of her conversations with the accused. Her cross-examination was directed to two main points: first, that her second husband had been dismissed by the Duke, which she denied; and, secondly, that she was being maintained and was in touch with the prosecutor, which she also denied. So far as may

be judged from the report, her denials on the second point were untrue, but her main evidence was not cross-examined upon.

The remaining witnesses were not important. The register book was produced and the handwriting proved. The marriage with the Duke of Richmond was proved. Then the solicitor said that Mr. Spearing, the Attorney, "though Mayor of Winchester, is now found to be amusing himself somewhere or other beyond seas. God knows where"—a plain hint that the defence had made it worth his while to absent himself.

Then the accused lady addressed the Court, protesting her innocence. It was a dignified speech, but the legal matter in it makes it plain that she was not the author. Why, she asked, if she were guilty, was she left unmolested during the Duke's life? Since his death she had been the victim of insulting charges in Chancery suits, and of an infamous prosecution, though in a dangerous state of health; her credit had been stopped, and she would thereby have been prevented from returning to meet the charge. She had instituted the jactitation suit because Lord Bristol's reports about her had unsettled her title to her property and had endangered her pension from the Princess of Wales. At the end she asked the Lords to send to examine Dr. Collier, her advocate in the Ecclesiastical proceedings, as he was too ill to come to give evidence. The application was necessarily refused, as there was no precedent for taking evidence in a criminal trial except *viva voce* in open Court.

Then came the witnesses for the defence. First, Mr. Berkeley, Lord Bristol's attorney, raised an objection on the ground of professional privilege. It was overruled, and he then said that in 1768 the Earl wished to obtain a divorce and the witness saw Ann Cradock, who said that she was old and infirm and could remember nothing of the matter. Ann Pritchard was now called to prove that, when discussing the Chancery proceedings, Ann Cradock told her that, though in the church, she had not heard the marriage ceremony. Finally, a witness proved that Dr. Collier had advised that the marriage with the Duke could safely take place.

As the Attorney-General admitted that, before her marriage with the Duke, the accused had acted in many transactions as a single woman, no further evidence was called.

The Solicitor-General was called upon to speak in reply. He was almost contemptuous, for his speech amounted to little more than an assertion that the defence had made out no answer to the charge, and therefore he need not deal with the facts in detail.

As is usual in peerage cases, there was no summing-up, and the peers proceeded to vote. One by one their Lordships rose and pronounced the prisoner guilty. There was only one variation from the time-honoured formula. "Guilty upon my honour." The Duke of Newcastle said, "Guilty erroneously, but not intentionally, upon my honour."

One would then have expected the sentence, but a further point was raised. The accused claimed the privilege of peerage. The Attorney-General, asked to deal with the point, professed that he had not expected to be called upon, but nevertheless he began a long and learned argument, which could not have been delivered unless someone on his side had anticipated that the point would be raised.

The point was this. By statute, peers enjoyed immunity from punishment from clergyable offences. Where a man could plead benefit of clergy, a peer was entitled to be discharged, but without reading or branding or imprisonment. A woman could not claim benefit of clergy, and for her sex the judges had invented the presumption of marital coercion (a fiction abolished in 1925). Could a peeress claim this privilege of a peer? After long argument the judges were asked to give their opinion. They ruled that a peeress did enjoy this privilege—the third point upon which this case is an authority, but it has now ceased to have any practical application. The Lords accepted the ruling, so the accused, found guilty after a five days' trial, escaped punishment. The Lord High Steward, in discharging her, warned her that the privilege could only be claimed once for this offence. She fainted and was carried out. Then he called for the White Staff which the Gentleman Usher of the Black Rod handed to him. He rose

and, breaking the staff, declared his commission ended, and the Lords returned in solemn procession to their own House.

Was she guilty? It seems quite certain that she was. She had contracted a foolish marriage and desired to escape from its bonds. Learning that a decree would be binding, it seems certain that she was at least a consenting party to a collusive and fraudulent action whereby she endeavoured, by relying upon a technicality of the law, to gain liberty to contract a second marriage while the former remained in existence. She was not the kind of woman who would be a dupe, but her ingenuity, or that of her advisers, was too cunning and she suffered exposure in consequence. She lived, naturally enough, abroad for the remainder of her days.

Immediately after the trial, she heard that her adversary was applying for a writ *ne exeat regno*. He was no match for her in manœuvring. The town soon knew that she was issuing invitations to dinner to her sympathisers, but she did not stay to receive them. The invitations covered her departure for Dover, whence she crossed to France and made her way to Rome. There she found that a friar, whom she had left in charge, had stolen her plate and seduced her maid.

After various journeys, including a venture at St. Petersburg in brandy distilling, she settled in France. Once she purchased a large house at Montmartre, only to find that it was so dilapidated as to be useless, and she was plunged into litigation. After that she bought a magnificent estate near Paris, called St. Assize. The house was large enough to be made a royal palace, far beyond her needs, but she made use of the grounds to trap game, which she used to sell in Paris. Her penchant for litigation shortened her days. In 1796 she was informed that she had lost a lawsuit. She was so annoyed that she burst a blood-vessel, and a few days later, on 26th August, 1796, she expired, at the age of seventy. She had had a long, and on the whole, a successful life. While Society and position appealed to her, she held an important post with the first lady in the land. If she loved secret romance, she had for twenty-five years lived hugging to her bosom a secret

which would have intrigued her friends and enemies. When position and means appealed to her, she contracted a wedding which improved her status and thereby acquired means to indulge her fancies during the rest of her life. A masterful woman of intellect, wit, and beauty, she overrated the importance of getting her own way. It led to her improvident first marriage, to the chicanery of the devices which enabled her to marry again, and eventually contributed to her death. At least she obtained her desires. Even when exposed she escaped the grosser form of punishment. She merely incurred notoriety and loss of respect. Whether the game is worth such results is a question which women answer according to their temperament, but there is every reason to believe that, if Elizabeth Chudleigh had been more prudent, she would have merited as great a prominence as she enjoyed during the days she was held in honour; and she would not have ended her days in exile, a lonely, quarrelsome old woman.

**THE MURDER OF
DR. PARKMAN**

THE MURDER OF DR. PARKMAN

ONE day Mr. Benjamin Butler, in his time a very well-known advocate in the States, was cross-examining a witness in a manner which earned him a judicial rebuke. "Remember," said the Judge, "that the witness is a Harvard Professor." "Yes, your Honour, I know," retorted Butler. "We hanged one of them the other day."

The Professor who was hanged was John White Webster, Professor of Chemistry and Mineralogy at Harvard University and of Chemistry at the Boston Medical School. He was, in 1849, about sixty years of age, living on most affectionate terms with his wife and three unmarried daughters, of a social disposition, known to a wide circle of friends and liked by everybody, except, it would seem, by one Littlefield, the caretaker at the Medical School. Though a Professor and M.A., M.D. of Harvard, he was not regarded as a really learned man, and his lectures bored the students. Nor was he a prudent man. His income from his chairs was small, \$1,200 from Harvard and fees at the Medical School, and could not have exceeded £400 a year. On this income he entertained largely, and it is not surprising to find that in 1842, having run through his patrimony, he borrowed money.

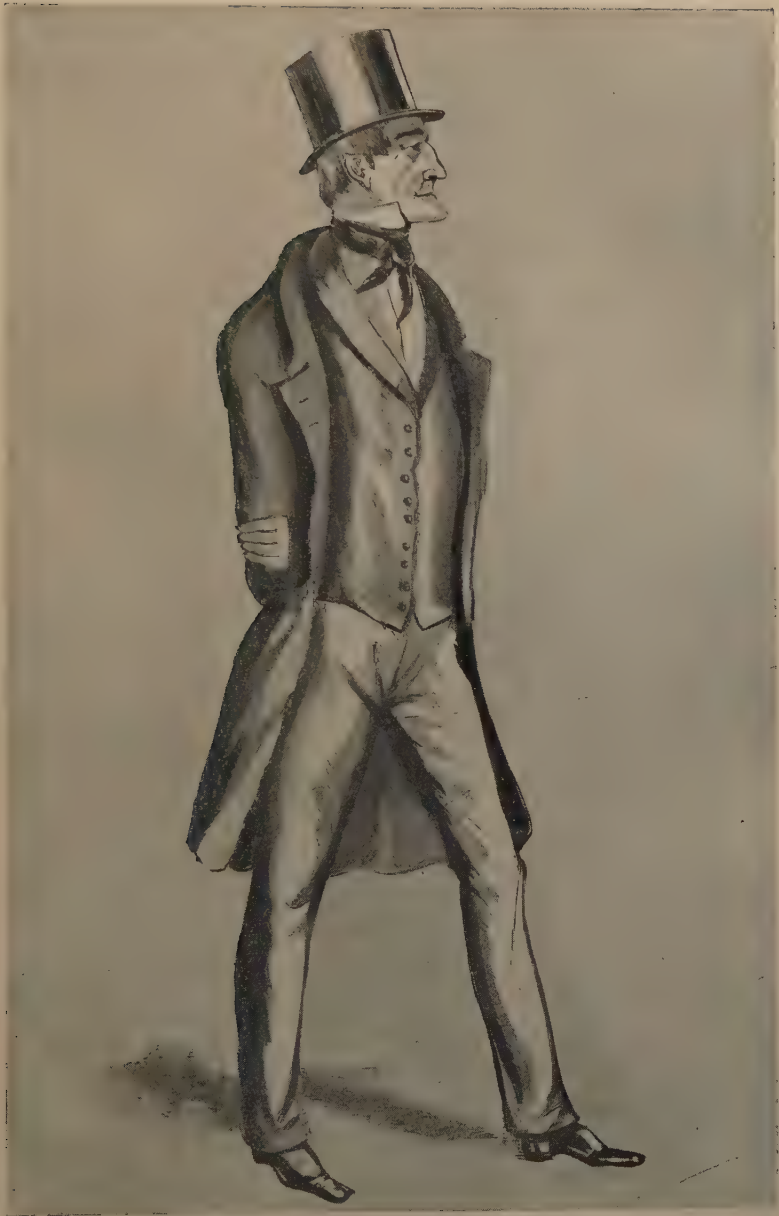
The lender was a lifelong friend, Dr. Parkman. He had retired from practice and spent his time watching his investments. Nearly six feet high, but seeming much taller by reason of the sparseness of his build, he was one of the best-known characters of Boston as he scurried through the streets, chin thrust forward, right arm behind him with the hand clasping his left elbow. The common folk called him "Chin" behind his back.

Like many Scots, he was generous in his own way. He had given the land on which the Medical School was built, and the Professorship of Anatomy held by Oliver Wendell Holmes was

named after him. He was devoted to his wife and invalid daughters. The family came from Aberdeen, but had settled in Boston, where his brother held a cure of souls. The celebrated historian was a nephew of Dr. Parkman.

When, therefore, in 1842, Webster applied to his old friend for the trifling loan of \$400, the money was at once forthcoming. The punctilious and exacting Scot did, it is true, obtain a note of hand and require interest, but, though the years passed, he was content to regard the loan as an investment and was satisfied with the interest he received. The rate was 6 per cent., quite moderate, since he could at that time have got more on mortgage securities. In 1847 Webster wanted more and Dr. Parkman procured it for him. A small group joined in advancing \$2,432, payable in four yearly instalments with interest at 6 per cent. This time he took as security a charge on all the debtor's personal property, and this was duly registered. But Webster was still hard up in 1848. He went to another old friend, Parkman's brother-in-law, and borrowed \$1,200, depositing with his creditor his cabinet of minerals as security. This cabinet was part of Parkman's security, and Webster's action was not only dishonest, but foolish in the extreme. Of course, it soon came to Dr. Parkman's knowledge and turned him into a bitter and relentless creditor. Thereafter he pursued the unfortunate man, demanding money which he was quite unable to pay and adding to his embarrassments by attempts to divert the students' fees payable to the Professor. It is said that he even haunted the classes, sitting in the middle of the front row and glaring at his debtor. It was clear that this persecution would cease only on payment, and payment was quite out of the Professor's power.

It is in circumstances such as these that the thoughts of weak, conceited men turn to murder. They are weak enough to dally with the idea, and conceited enough to think that they can commit a murder with impunity. Professor Webster, with all his amiable qualities, was weak and conceited, and in November, 1849, he entered upon the scheme which cost both creditor and debtor their lives.



DR. GEORGE PARKMAN

The Professor had quarters at the Medical School set apart for his own use. They consisted of a laboratory, a private room, and lavatory. Under the lavatory was a vault separated by a wall from the room where the objects for dissection were kept. Into this vault the sea penetrated, but in such a way that solid substances could not enter from the sea or be washed out into the water. The whole school was under the charge of a caretaker, Littlefield, who lived on the premises.

During term, the Professor lectured from Tuesdays to Fridays, but not on Saturdays, Sundays, and Mondays. In the week commencing Sunday, 25th November, 1849, he was due to lecture only on the Tuesday, since Thanksgiving fell on the Thursday and the lectures were suspended after Tuesday for the rest of the week. It was not his custom to attend the College on any Saturday or Sunday.

The events which I am about to relate began on Monday, 19th November, 1849. On that afternoon Parkman called at the Medical School and the conversation was loud enough to be heard by Littlefield. He began: "Dr. Webster, are you ready for me to-night?" and received the reply: "No, I am not ready to-night, Doctor." He then revived the grievance about the cabinet and eventually the two men parted, with a promise to meet on the morrow. So far as is known they did not meet until Friday, the Doctor pursuing and the Professor evading pursuit. But early on the Friday a man, admitted to be Professor Webster, called on Dr. Parkman and appointed a meeting at 1:30 that day. Towards this time Dr. Parkman was seen striding in the direction of the Medical School. He was not seen again alive.

That night the family became anxious and a search was instituted. From time to time rewards were offered. The news was widespread by the Saturday, and during the next week formed the chief topic of conversation in the neighbourhood. It was on the Sunday that Professor Webster first told the missing man's brother about the appointment. Dr. Parkman, he said, had called and received \$483.64 for principal and interest. He was dashing off when he was called back to cancel the note for \$400. He seized

a pen, struck through the signature, and as he again ran down the stairs called out that he would cancel the charge next day at East Cambridge.

Meanwhile the Professor had changed his habits. He was at the Medical School on Saturday and Sunday, where he had never been before, and even after the Tuesday, when lectures were suspended, he was every day busy in his quarters at the School. But they were kept locked and Littlefield was not allowed in. It was the latter's duty to light the fires, but he could not do it. Nevertheless, daily he noticed that the heat in the laboratory furnace was so great as to penetrate the wall. The Professor, too, began to make friendly inquiries about the caretaker, and for the first time gave him a turkey for his Thanksgiving dinner.

Littlefield was suspicious, and sought for means to enter the forbidden rooms. At last he decided to break through the wall into the vault. His first attempt failed, but he renewed it on the Friday, just a week after the disappearance. During that week Professor Webster had done several things not expected of him. He had bought fish-hooks and twine and with it made a grapple. He had talked with all and sundry, and it was noticeable that he tried to make people say that Dr. Parkman had been seen after the interview. He told people of mysterious occurrences, such as a bricklayer paying a five-cent toll with a \$20 bill. Someone wrote illiterate letters to the police. At the trial experts said that Webster wrote them. They were certainly curious productions for such a man. Here is a specimen:

Dr. Parkman was took on Bord the ship herculun and this is al I dare to sa as I shall be kild Est Cambige one of the men gave me his watch but I was feared to keep it and throwd it in the water rigt side the road to the Cambige to Bost.

There had been a search at the School on the Monday, but it were merely to satisfy the public. The Professor's rooms were visited and afterwards it was remembered that, when they went to his lavatory, he called their attention to something else and it was left unvisited.

On Friday, 30th November, Littlefield broke through into the vault under the lavatory, and by the light of a candle saw a pelvis and parts of legs. He at once told of his discovery, and a thorough search was decided on. Webster was at Harvard and he was sent for. The messengers, by a ruse, got him into a cab and drove him to the gaol, where he was informed of the discovery. The news dazed him. He gasped out the significant question, "Have they found the whole of the body?" and moaned about the shock to his family. He certainly made an attempt on his life, but the poison did not kill him. He became terribly ill. In that condition he was taken to be present at the search.

On the Monday the searchers had seen a tea-chest filled with tan bark. Now they found concealed in it a man's left leg and thorax from which the breast-bone had been dissected. There were pieces of flesh. In the furnace were calcined bones and obviously the remains of false teeth and a shirt-button. In the vault were a pair of his trousers and some towels, almost new. The remains in the tea-chest were bound with twine, like that used for the grapple which was also found. But no clothes or personal belongings of the missing man.

It was one thing to be certain that the mystery was solved but another to demonstrate that the solution was the real one. Dr. Parkman had disappeared, but were these his remains? A medical school has many subjects for dissection. A group of experts was set to work, and their conclusions are still cited in works on medical jurisprudence. They were able to show that the remains were all part of one body, and not several, but that not the whole body was there. In fact, the parts most likely to lead to identification were missing, including the head. They were also able to satisfy themselves that the body was not one used for anatomy; there was no trace of the preservatives which are always used for such subjects. Further, they were of opinion that deceased was a man between fifty and sixty years of age, probably quite sixty, and in life had the same height and build of the missing man. The dismembering had been done for no scientific or medical reason, but was nevertheless the work of someone acquainted with anatomy.

Parts of the flesh discovered had been treated with potash, which would tend to destroy it.

The remains from the furnace added further significant data. The calcined bones were not all so burned as to prevent them being named. Some came from the head, others from the leg and arm, and the other remains lacked the head, one leg and one arm. There was also a shirt-button, showing that a garment had been burned, and, most important of all, a human tooth and some blocks of artificial mineral teeth, stained pink, a fact which indicated that they had been subjected to very great heat in the presence of gold. An examination for metals yielded a certain amount of gold, which might be expected if a head containing false teeth had been burned.

The dentist who attended Dr. Parkman was called in. He was a close friend of both men, and at the trial gave his evidence with manifest reluctance and great emotion. He had made the teeth for Dr. Parkman in 1846 and had kept the moulds and casts. There would be no room for doubt. Dr. Parkman had a most abnormal peculiarity in his lower jaw, which had required a most unusual form of block. Moreover, after he had been fitted, he had complained that there was no room for his tongue, and the blocks had been specially filed. Those taken from the furnace bore the marks of the filing, and but for that, corresponded exactly with the moulds. He said, too, that the false teeth must have been in the patient's head when placed in the furnace, because otherwise they would have exploded in coming into immediate contact with the fierce heat.

The result of this examination was such that Professor Webster and his advisers admitted that there was a case for trial by a jury. While in custody, the prisoner was imprudent enough to write to his daughter, urging her to tell her mother to keep a bundle which he had given her but not to open it. This letter, of course, was read by the prison authorities.

A search warrant was issued, and the police found a bundle containing not only the \$400 note, but also the one for \$2,432 and various memoranda in the Professor's handwriting as to

interest, including a note of the \$483.64 which he said he had paid. The interest calculated would have covered a period up to a date in 1850, a mistake which Dr. Parkman would never have made or passed, but the worst feature was the note for \$2,432, which did not completely mature until 1851, and which Professor Webster had never suggested had been taken up. But both notes had the signature struck through. Even on the story he told, the larger note should never have been in his possession.

In January, 1850, the Grand Jury returned a true bill. The indictment contained four counts, charging the murder in four different ways. Much legal argument was expended upon this formal charge, but it was held to be good, and the objections need not detain us.

It was not until March, 1850, that Professor Webster was arraigned, and upon his assignment he pleaded not guilty. Four judges sat, the Chief Justice of Massachusetts presiding. The Attorney-General for the State led for the prosecution, and Mr. Pliny Merrick, a lawyer of great reputation, led for the defence.

The trial lasted for twelve days, and during the whole period the prisoner was comforted by the presence of some member of his family. His wife and daughters were whole-hearted believers in his innocence, and came to sustain him. For eight days witness after witness for the prosecution came into the box, and gradually the case against the prisoner strengthened. Then Mr. Sohier, the junior for the defence, opened their case. It is sufficient to recall the Attorney-General's comment that, on such a charge and on the facts in evidence, he devoted two hours and five minutes to the law and ten minutes only to the facts. Many witnesses were called as to Webster's high character and reputation. There was no question as to that: he could not have held his chairs otherwise. The other witnesses were called mainly on two points: to throw doubt on the identification of the remains and to prove that Dr. Parkman had been seen alive and well after his call at the Medical School. On the tenth day, rebutting evidence was admitted, and then Mr. Merrick made the final effort for the defence. He spoke at great length and with florid eloquence, but he was severely

handicapped by the strength of the case made against his client. The great defect was that he did not take any clear line, but suggested a number of defences inconsistent one with another. It is, of course, often the duty of counsel to suggest alternative defences, and it may be a potent criticism of the prosecution's case to show that a number of explanations, consistent with that case, are possible without involving the conclusion that the prisoner is guilty. But the jury is apt to consider the use of alternative arguments as a confession of weakness, and for this reason great caution is needed when using them. But Mr. Merrick made observations which were only intelligible on the assumption that the remains were those of Dr. Parkman, though he strongly challenged this conclusion.

The jury were invited at one time to believe that Dr. Parkman was alive; at another that the remains were not his; again, that they were his but brought to the School after death by the unknown murderer; that the evidence proved the guilt of Littlefield as much as that of Professor Webster; and also that his client did kill Dr. Parkman, but in circumstances that reduced the offence to manslaughter.

The Attorney-General replied and then the accused took advantage of his right to make a statement. It did him no good, because not only did he criticise his lawyer's conduct of the case, but, in seeking to explain what they did not, he showed that he was evading the real bearing of the points he endeavoured to explain away.

He said that the letter to his daughter referred to a packet of citric acid, which he wanted kept to rebut a suggestion that he had bought oxalic acid. This may perhaps have been true, but the letter merely explained how the police discovered the notes and memoranda. The Professor did not explain how he came to pay, and Dr. Parkman to take, a wrongly calculated sum for interest, or how he was in possession of a cancelled note which, on his own story, was still outstanding and should not have been in Dr. Parkman's possession. With that grave aspect of the evidence he did not deal. Again, he explained the splashes treated with nitrate

of copper by saying that he had been experimenting to show, among other things, the effect of nitric acid upon blood. Even if that were true—and no student was called to corroborate it—was there ever a professor who splashed a laboratory wall with gout of blood merely in order to show that by treatment with copper nitrate they could no longer be proved to be blood? He never faced that issue.

Chief Justice Shaw summed up at length, but comparatively shortly for so long a case. His speech is one of the classic expositions of the nature and use of circumstantial evidence. It was a fair and impartial statement, but necessarily its effect was strongly against the prisoner. At 8 o'clock of the evening of the twelfth day the jury retired, and shortly before 11 they returned with a unanimous verdict of Guilty.

On Monday, 1st April, 1850, the prisoner was brought up for sentence. He made no appeal to the Court, and after a homily in the manner customary in those days, was told that the penalty was death. As the last words of the time-honoured formula fell from the Judge's lips, the prisoner fell back in his chair, convulsively sobbing. For several minutes complete silence reigned. At last the tension was relieved by a formal order to adjourn the Court.

Even in 1850 the trial and sentence did not end the legal proceedings. There was an application for a writ of error, but all the legal objections were overruled.

Now the only hope was for a reprieve. Professor Webster petitioned and his confession accompanied the appeal for mercy. His version was that, suddenly maddened by his creditor's sneers and insults, he had struck Dr. Parkman down in an access of fury, and then, panic-stricken, had endeavoured to conceal the evidence of his crime. It was of no avail, but it convinced his wife and daughters, who up to then had maintained their belief in him. It is almost certain that his confession, made to support his petition, was not true. There are facts which point strongly to the conclusion that he had planned the murder to relieve himself from an importunate creditor.

When he learned that he had to die, Professor Webster resigned himself to his fate. He sent for Littlefield and apologised for the injustice done by his attack upon him. He acknowledged that his sentence was just, and on 30th August, 1850, he met his death with patience and resignation.

Thus perished a man who, in happier circumstances, might have lived to an honourable and honoured age, but it may be doubted whether, if he had not committed the crime which brought him to the scaffold, he would not have been forced by his imprudence to resign his positions and drag on a miserable, poverty-stricken life. As it happened, he enriched the records of crime by a noteworthy murder, indirectly created a precedent in medical jurisprudence, and was the cause of a classic exposition of the law of evidence.

**JAMES SCOTT, DUKE OF
MONMOUTH**

JAMES SCOTT, DUKE OF MONMOUTH

It is true that James Scott, Duke of Monmouth and Charles the Second's favourite son, did not have a trial—as we understand the term—before his head fell to the executioner's axe on Tower Hill on 15th July, 1685. He owed his death to another form of legal procedure, an Act of Attainder. As soon as news of his armed rebellion against the government of his uncle, James II, reached London, the Act was hurried through both Houses of Parliament and his life was declared forfeit on the ground of clear treason.

Though, then, his fate was prejudged rather than judged, the circumstances of his life and his execution nevertheless deserve a place in such a volume as this, for the story of his career, his crime, and the forces of which he was the puppet is among the most absorbing in the history of the reign of Charles II and his brother—a period when British prestige reached its lowest ebb; when the King of England was the impotent pensioner of the King of France; but a period when some of the most impressive and curious figures of our history moved across the stage. The thirty-six years of Monmouth's life are a mirror of the age in which he lived, and only by a study of his life can we understand how he came to lose it.

He was born at Rotterdam on 9th April, 1649, the fruit of a passing fancy which the exiled Charles II entertained for a lady known as Lucy Walters. Charles never seems to have doubted his paternity of the child, though many well-informed contemporaries believed otherwise. It is certainly true that Charles took Lucy Walters almost from the arms of Robert Sidney, son of the Earl of Leicester, and it is equally certain that Monmouth bore a striking physical resemblance to Sidney. That Charles openly acknowl-

edged the child as his is not conclusive evidence, for he was cynical enough in such matters.

Lucy Walters was described by one who knew her as "a brown, beautiful, bold, but insipid creature," and the epithets fit her son. From babyhood he was handsome, charming, precocious, and hardy, but unstable and shallow of character. His was a magnificent façade, built upon soft sand.

Until the Restoration in 1660 he was in the care of Lord Crofts, whose name he used, and of the Queen Dowager, Henrietta Maria, widow of Charles I. His earliest schooling came from Roman Catholic tutors, but before his tenth birthday these were exchanged for teachers of the Reformed faith. In July, 1662, when Charles II had established his routine of mistresses, intrigue, and gay conversation at Whitehall, he sent for the lad, who came to Court as plain "Mr. Crofts," and was placed for his better education under the especial care of Lady Castlemaine. During the next three years he made ample use of the opportunities so afforded him to become a precocious expert in dissipated amusements; and, although Charles had not yet formally avowed his relationship to "Mr. Crofts," he created him Duke of Orkney, Duke of Monmouth, and a Knight of the Garter.

Further to establish his son's fortunes, Charles cast round for a duchess for him, and selected Anne Scott, Countess of Buccleuch, the wealthiest heiress in Scotland. The wedding was celebrated in 1665, and Charles took the occasion to create bridegroom and bride Duke and Duchess of Buccleuch, with precedence over all but Dukes of the Royal Blood. Henceforward Monmouth was treated at Court as a Prince of the Blood; he quartered the royal arms with a bar and label, and assumed the rôle of royal bastard, hitherto unknown to English Court life, though familiar to Versailles.

Monmouth had no love for his wife, though he accepted her surname and used it to his death. Very soon after his marriage, possibly to escape the tedium of too protracted a honeymoon, he followed his uncle James, Duke of York, on naval service, and served with distinction in a stubborn engagement with the Dutch

fleet off Lowestoft. Returning to London, he was petted as a hero, and spent the next five years as the darling of a debauched Court. He was avid for new honours, and any gift which his doting father could bestow was his for the asking. So, in 1670, when the Duke of Albemarle, better known as General Monk, died, Monmouth, and not the Duke of York, was gazetted as Captain-general of the King's Forces. His uncle was intensely annoyed, for, not without grounds, he prided himself on his bearing as a soldier, and from this time dated a fixed and bitter antagonism between the two men.

Hitherto Monmouth had been a political cypher. He was too busy beating street watchmen and too engrossed with his many love affairs—including, it is said, one with his aunt, Henrietta, Duchess of Orleans—to bother about affairs of State. Now, suddenly, he became one of the most important political figures of the day. Charles II and his Queen seemed incapable of gratifying the popular demands for a direct heir to the throne, which would therefore fall, on Charles's death, to his brother James, whose Roman Catholicism, though not acknowledged, was believed in by all the nation. Month by month the menace of a persecuting Catholic King waxed larger in men's minds; from a probability it became a terror. The leaders of the young Whig party besought the King to issue a declaration that he had been lawfully married to Lucy Walters, and so to legitimise Monmouth. The young man was regarded as the alternative heir to the throne, the vehicle of the precious Protestant succession, and the rallying-point of those who hated James and feared his sombre plots.

Chief among those who urged this course upon Charles was Anthony Ashley-Cooper, first Earl of Shaftesbury and father of the Whigs. He was the most cunning, facetious, and violent of all the imperious men who struggled to control the policy of the most indolent of monarchs. In this case, however, Charles exerted himself. To all pleas that Monmouth should be named his successor, at the expense of James, he remained immovable. The idea that the son of a "notable prostitute" should sit on his throne was indeed almost a jest after his own heart; but concern-

ing the honour of his house Charles was resolute, declaring that "well as he loved the Duke of Monmouth, he had rather see him hanged at Tyburn than own him as his legitimate son."

Although Charles would not be moved, Monmouth remained at the head of a powerful party, or at least was used as its figure-head. He found this first taste of the involved excitements of Restoration politics much to his liking. As often happens to weak men, the power he believed to be his swelled him with delicious importance. His character, spoiled rather than formed by boyish profligacies, was already set. He had been forced to an early maturity, and further experience could not change the vacillation, the charm, the inefficiency, and the purposeless rashness which were peculiarly his own.

The furious uproar of the "damnable and hellish" Papist plot to murder the King, revealed by that paragon of liars, Titus Oates, forced Charles to banish his brother James to Brussels, and immensely advanced Monmouth's popularity. The King, however, dealt his son's cause a shrewd blow by signing a declaration that he "never was married, nor gave contract to any woman whatsoever, but to my wife Queen Catherine." Three months later Charles fell seriously ill, and the prospect of his death, followed by a disputed succession, threw the Court into a ferment. Shaftesbury's enemies persuaded the royal invalid to recall James. When the latter returned to Belgium on the King's recovery he had a promise that Monmouth's growing arrogance should be checked. Accordingly the young man was removed from his command of the Army and ordered out of the kingdom. He retired sulkily to Utrecht while James, more confident of his position, moved to Edinburgh.

Two months of tedious exile disgusted Monmouth. He could no longer live without the excitement of politics, and, encouraged by Shaftesbury, he returned secretly to London. He was received with acclamation as the champion of Protestantism. Charles thereupon deprived him of all offices and ordered him back to exile. Feeling himself secure, Monmouth ignored the command, and his father, perhaps glad of his presence as a weapon against

the intransigence of James, smiled and lightly punished the disobedience by excluding him from Court.

Once against Shaftesbury set his pamphleteers to work, and they turned out declarations of Monmouth's legitimacy, mingled with arguments that, even if he was not the rightful heir to the throne, he would make the best king. Still amused, Charles countered by publishing his statement in the *Gazette* that his Queen was the only wife whom he had ever married.

Undismayed, Shaftesbury despatched his puppet on a progress through the west of England, the stronghold of Puritanism and of Whiggery. Travelling in the state fitting an heir to the throne, Monmouth was received with smiles and cheers all along his road. On one occasion he "touched" for the King's evil—a small thing, but one which made a mighty impression. Returning proudly to London, he flung himself into the struggle to pass a bill through Parliament excluding James from the succession. He had the audacity to speak and vote for the bill in the House of Lords, but, despite his vehemence, it was thrown out by the decisive majority of 63 to 30.

This failure could make no impression on the sanguine Duke, and Shaftesbury, to cover the defeat, organised an elaborate banquet in his honour which was attended by many men of influence and wealth in the City of London. Monmouth drove to attend it in his coach, cheered more uproariously than ever by the rabble, who were quick to notice that the bar sinister was gone from the royal coat-of-arms which decorated the vehicle. Applause had turned the young man's head; he, no less than his Whig masters, was blind to the clouds gathering against his sunny popularity.

Early in 1681 Charles summoned Parliament to meet at Oxford. Surrounded by armed retainers, confident and hilarious, Shaftesbury and the Whigs gathered at Balliol College, while Charles and the Tories installed themselves at Christ Church. Rival mobs decorated with red royalist ribbons or blue Whig badges bearing the legend "No Popery! No Slavery!" rioted in the streets. Monmouth, in the background, awaited the consummation of all his ambitions.

On a Monday morning, the first day of spring, the session opened, the Lords sitting in the Geometry School, a room in the building which is now known as the Bodleian Quadrangle, and the Commons in the Convocation House. Charles delivered a stately Speech from the Throne, emphasising his unalterable decision to maintain the legitimate succession; the Whigs listened, cynically conscious of their own power. After a few days of formalities and minor business, the grand debate on the succession was set for Saturday. Various plans were prepared and discussed, but one and all vetoed James. Shaftesbury made a personal appeal to the King that he should end all discussion by declaring for Monmouth.

"I will never yield," answered Charles coldly, "and I will not be intimidated." But not even these words could persuade Shaftesbury that he did not hold all the trumps in his hand.

On Monday morning, the King, clad in his ordinary clothes, was carried in a sedan chair from Christ Church to the Schools. Behind him came another chair, its windows shaded. No one knew who or what was inside.

On his arrival, the Commons were summoned to the Bar of the Upper House. They trooped in exultantly, expectant that Charles had come to announce the end of his opposition to their wishes.

The King met them in his Robes of State, in which alone he could dissolve Parliament. Then they understood the purpose of the second sedan chair, and knew that he had hoodwinked them. He called cheerfully to the Chancellor to make known his will, and this official, in a sentence, declared Parliament dissolved. Charles smiled again, disrobed, and was carried back to Christ Church, his Robes following him, as they had come, in the second sedan chair.

The King had defeated the Whigs, and, until the day of his death, he was as absolute a monarch as he chose, dependent on Louis XIV for supplies, but certainly master in his own house. The Whigs, appalled by his manoeuvre, scuttled back to their country houses, fearing that a proscription would follow this de-

feat. Within two hours of Charles's stroke, the roads from Oxford were filled with lumbering coaches and black with fugitives on foot and horseback.

Monmouth's chances of succeeding his father had vanished. Had Shaftesbury been a Cromwell or a Chatham, he could have rallied his forces, refused to accept the dissolution, and continued the session. Probably such action would have precipitated a civil war, in which, for want of a better, Monmouth would have been adopted as the Whigs' figurehead. But Shaftesbury was not a Cromwell. Faction and small violence he perfectly understood, but so great and hazardous a throw as was needed to meet Charles's tactics on that day was beyond him. He fled with the rest.

Henceforward Monmouth's decline to his abortive rebellion of 1685 was inevitable, for it was implicit in his character. He did not understand that his personal popularity leaned on Whig popularity and could not stand without it. He was amazed and almost tearful when the crowds which so recently had cheered him now shouted ribald insults after his coach. Facts, however, were powerless to alter his estimate of his position, and in the autumn of the following year he set off on another progress through the western and northwestern counties. It proved as disastrous as its predecessor had been triumphal. He was narrowly watched by spies, and, when his folly provided a pretext, was arrested at Stafford and released only on giving ample sureties of future good behaviour.

Almost immediately afterwards, Shaftesbury, who had never recovered from the debacle at Oxford and now imagined his life to be in danger, fled to Holland, where he soon died, worn out by the violence of his politics and his debauchery. He was not the most prudent of counsellors, but he was an astute and cunning man, well fitted to save Monmouth from the grossest acts of natural folly. Bereft of his advice and the steadying influence of his political guidance, Monmouth now sank from one crass stupidity to a lower.

He broke the conditions of his bail by parading Chichester in

state, and was probably meditating further floutings of the Government when the discovery of the Rye House Plot (a Whig conspiracy to murder—or at the least to kidnap—Charles and James) gave the King's advisers a convenient excuse to arrest all the Whig leaders. Alarmed for his safety, Monmouth retired to obscurity in Bedfordshire, where his father, who despised him almost as much as he loved him, was content to let him remain.

Soon tiring of country idleness, however, Monmouth contrived to reconcile himself to his father by betraying all he knew of the Rye House Plot and by letters of grovelling submission, which, to his disgust, were published in the *Gazette*. Next he was subpoenaed to give evidence at the trial of one of those accused of complicity in the plot. On the appointed day his name was called in court, but he made no reply. He had fled to Holland and safety. He probably never saw Charles again, for, though he came to England in strictest secrecy in November, 1684, to attempt a reconciliation, it is doubtful whether an interview between father and son took place.

Early in 1685 Charles died, tortured by the ignorance of his doctors as much as by his diseases. James ascended the throne without disturbance if without acclamation. Before eight weeks passed, Monmouth had yielded to the counsels of desperate Whig exiles in Holland, and was preparing an expedition to snatch the crown from his uncle.

He set out in three ships, eluded James's fleet, which was watching for him in the Channel, and, on 2nd June, landed his tiny contingent at Lyme Regis. Sanguine as ever, he anticipated a frenzied welcome, but the townspeople inspected his expedition with mild interest rather than enthusiasm. In a manifesto he asserted his legitimacy, but laid no claim to the throne, referring the succession to Parliament. He came, he declared, to restore liberties which had been destroyed, to bring toleration to all Protestants; and he called on all Englishmen to join him against a Roman Catholic king.

As he moved inland this appeal to religious fanaticism brought a harvest of Puritan recruits, which was swelled by the news

that his troops had been successful in two slight skirmishes with the local militia. Nevertheless, the poor miners and peasants who, remembering his first progress, came to fight for handsome King Monmouth (for so they called him to avoid confusion with his uncle, since both were named James) drove him to despair. He had counted on the powerful Whig families rallying to him; not one of them moved.

As a last device he proclaimed himself King at Taunton on 20th June, and set a price on James's head. Then, undecided and sick at heart, he wandered off with his bands through Wiltshire. On 5th July, finding James's forces, commanded by John Churchill, later the first Duke of Marlborough, encamped on Sedgemore, near Bridgwater, he planned to surprise them. His attack was well conceived, and, if his difficulties in crossing a broad dyke in the darkness had not given the royal army the alarm, the surprise might have been complete and victorious. As it was, Monmouth's peasants fought obstinately and bravely, using scythe-blades lashed to staves with great effect.

Undisciplined valour, however, even though inspired by religious zeal, had small chance against artillery and Colonel Kirke's regiments fresh from the rigours of campaigning in Tangier. As the remnant of his poor followers was driven in confusion from the field, Monmouth fled. For two days he lay hid, but on the third he was discovered disguised as a rustic and lying under some straw in a ditch "with a few peas in his pocket." He was brought to Vauxhall, placed in a barge, and conveyed by night to the water-gate of the Tower.

His speedy execution was, of course, inevitable under the Act of Attainder passed against him; but, broken in spirit, he seemed to have imagined that he could yet melt James into pardoning him. He wrote to his uncle, utterly abasing himself and pleading for a personal interview on the ground that he had an important secret to divulge to the King's ears alone. Ever suspicious that plots menaced his life, James consented to meet him, hoping for a discovery which would enable him to destroy some among his enemies.

What actually passed between uncle and nephew is not known, except piteous pleas for mercy on the one side and their contemptuous rejection on the other. To do James justice, we must remember that he never believed Monmouth to be his nephew, and that the latter had forfeited all claims to consideration by libelling his uncle on every occasion, and by raising rebellion in his realm.

Soon after the King left him Monmouth had two meetings with the wife whom he had never loved, and whose respect he had long destroyed by the callous parade of his infidelities. As a last expedient he wrote again to the King, offering to enter the Church of Rome if only his life might be spared. James did not send an answer, but commissioned priests to visit the prisoner and examine the sincerity of his sudden change of heart. These reported drily that it was his neck and not his soul which the Duke of Monmouth most desired to save.

When the time came for him to die, Monmouth's fortitude returned to him. Above all things he loved to appear before the people; he had an instinct and a talent for public occasions, and the knowledge that this must be his last may have nerved him to acquit himself worthily. Whatever the reason, it is certain that never in his life did he behave with so much dignity and command of himself as on the scaffold.

If the accounts of his execution be true, a man dying bravely can seldom have suffered so many indignities. He went out of the Tower to the scaffold on Tower Hill, where a huge crowd was assembled, attended by the Bishop of Ely, the Bishop of Bath and Wells, and two other divines, whom the King sent him as "his assistants to prepare him for death."

When he mounted the scaffold and saw the executioner, he asked, "Is this the man to do the business?" Informed of his identity, he added, "Do your work well." Then he began to speak, saying, "I shall say but very little. I come to die. I die a Protestant of the Church of England."

Before he could utter another word, one of the four "assistants" interrupted; and his speech degenerated into a bandying

of words concerning the doctrines of the Church of England, the sincerity of his penitence, and the suitability of his remarks. The four clergymen were determined to wring from him a public acknowledgment of regret for his rebellion.

After a bout of bickering, this dialogue took place:

Monmouth: "God be praised! I have encouragement enough in myself. I die with a clear conscience; I have wronged no man."

One of the Assistants: "How, sir? No man? Have you not been guilty of invasion, and of much blood which has been shed, and it may be of the loss of many souls who followed you? You must needs have wronged a great many."

Monmouth: "I do, sir, own that, and am sorry for it."

One of the Assistants: "Give it the true name, sir, and call it rebellion!"

Monmouth (speaking in a very low voice): "What name you please, sir. I am sorry for invading the kingdom, and for the blood that has been shed, and for the souls which may have been lost by my means. I am sorry it ever happened."

Directly he finished this sentence, the sheriff, who had been standing close to hear what passed, turned to the crowd and shouted at the top of his voice: "He says he is very sorry for invading the kingdom."

One might suppose that, having obtained so much satisfaction, the clergymen would allow the wretched man to meet his death. They began, however, to scold him again about the sincerity of his repentance, to bully him into further confession of his guilt. But when Monmouth stood silent, refusing to add to his humiliation, the divines fell on their knees in "solemn commendatory prayers, which continued for some time."

Thus refreshed, they turned a third time to extracting confessions from their victim, even exhorting him to commend his wife and family to His Majesty's protection.

To this request Monmouth pertinently replied, "What harm have *they* done?"

The assistants made no answer, but recommenced their prayers. When they finished, Monmouth called the executioner to him, and

began to prepare himself for his end. He knelt, laid his head on the block, and asked to feel the edge of the axe, fearing that it was not sharp enough to sever his neck at one stroke. Then, amid a torrent of pious ejaculations from the assistants, he died.

His sacrifice, unfortunately, was not sufficient. Jeffreys and four assistant judges were unleashed on the west, with instructions from James that their justice should be tempered with ferocity. The number of those executed has been unfairly exaggerated by such historians as Macaulay; probably not one hundred and fifty people were actually hanged, though the fate of the hundreds sold into slavery in the West Indies was hardly more merciful.

The vindictive mockery of Jeffreys' trials, the tarred corpses swinging on gibbets, and the memory of Monmouth's gay laugh and gallant elegance created a legend in Wessex. The martyrs of the Bloody Assize and the prowess of "King Monmouth," in love as in war, are crystallised in rambling legends which I have heard, even in this Twentieth Century, from old men in the Mendip Hills and the hamlets of the Wiltshire Downs.

Happy is Monmouth that in one corner of England his memory is treasured as good and great! For he was in truth a poor creature, sensuous, vain, and silly. Shaftesbury was his undoing, just as a mistaken estimate of his own personal popularity was Shaftesbury's fatal mistake. The great Whig filled Monmouth's empty head with resounding phantasies until he sincerely imagined himself as magnificent as Shaftesbury's hired mobs pretended him. He certainly deserved his fate, and it is ironic that such a handsome coxcomb should be transformed by a warm-hearted peasantry into an almost mythical hero who, when his country needs him, will return from the dead and call on the faithful to follow him to a Puritan victory.

THE YELVERTON CASE

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ONE summer evening in the year 1852 a party of friends and relatives were escorting a young and very pretty English girl, Miss Theresa Longworth, to the quay at Boulogne. Her sojourn in France had been for her education in a convent. Several of her kinswomen had married Frenchmen. Now she was proceeding to London.

One of Miss Longworth's sisters, Madame Lefevre, on leaving the boat for the shore, threw her a shawl, thinking that after the sultry day the night was sure to turn cold. As it chanced, the shawl was caught by a young artillery officer named William Charles Yelverton.

Very politely, he wrapped it round the young lady's shoulders; and from this slight but romantic episode complications arose which provided our Courts in Ireland, Scotland, and England, to say nothing of the press and public of the three kingdoms, with legal puzzles and social thrills which were spread over a long period of time.

Even the passage to England was eventful.

During the journey the two casual acquaintances evidently formed a rapid but agreeable intimacy.

How far this went will always be a matter for conjecture. The shawl, in due course, was supplemented by a plaid. The voyage was, without doubt, romantic.

I need not deal with all the possibilities. Imagination might, and did, make much of the encounter. But no imagination could have invented a story more curious than the one which actually ensued. In the end the law had to consider a number of intricate propositions based on hotly disputed alternatives, by the light of its own far-reaching principles—a light that is high, dry, and scientific.

A few details may be of interest concerning the origin and relative importance of the two families of Yelverton and Longworth.

The first Lord Avonmore in the peerage of Ireland, Barry Yelverton, was a capable, high-spirited lawyer, and an ingenious politician. He served in the highest legal offices, became Chief Justice of the Court of Exchequer, and lived long in Irish memories for his amiability, ambition, sympathy, and personal extravagance.

Barry Yelverton's elevation to the peerage belongs to the year 1795. His baronial title of Avonmore was taken from a rivulet in the county of Cork, and this honour was followed in the year 1800 by a viscounty.

Young William Charles Yelverton, at the time of the eventful meeting with Theresa Longworth at Boulogne, was the heir-presumptive to these family honours. It was as Major the Honourable William Yelverton that he was to become notorious.

Of the Longworth family it is not possible to speak with equal certainty. Theresa Longworth's father had been a silk merchant in Manchester. French commerce had brought him success. He seems to have acquired a modest property in Lancashire, to have married some of his many children off with credit, and to have done what he could for their settlement in life.

The name Longworth, racy of the soil, is in itself suggestive. If, in speaking of her forebears, Miss Longworth occasionally exceeded the facts, the temptation may have been great, for the time was to come when all statements made by her would be traversed by hostile agents paid for the purpose. The Yelvertons themselves, perhaps, had no great antiquity to claim. But a peerage in the offing and a love-story in the forefront, embellished with scandal and made public in a hundred ways, excited the population of these romance-loving islands with a curiosity hardly to be surpassed.

On arriving in England, the two acquaintances said farewell for a time.

They arranged to correspond.

This correspondence was preserved, in spite of more than one

effort to secure its destruction. Nowadays, such a correspondence might provide a nine days' wonder. In the Victorian age it made, in one way and another, a nine years' wonder. And we may consider at once a prologue and an epilogue. Those early letters, like that earliest meeting, are among the *Prolegomena*. They date from 1853, and, beginning with a mere note of inquiry on both sides, they evinced an increasing ardour. But, from the first, there was a stronger hope on one side, a stronger desire on the other.

The two personalities were very well matched as far as powers of expression went. Neither could be called a fool. Miss Longworth had profited by her education. Captain Yelverton, at twenty-eight, having already seen some service, was a seasoned man of the world. Possibly it was by way of experiment, after making special efforts to keep in touch with her, that he introduced her to another man, a yachting friend. This episode was made the ground of baser suggestions later on. Here, however, it is clear that Miss Longworth behaved with exemplary caution. Desire may be different in kind or degree. Such experience is frequent enough in sex problems. Theresa Longworth, as a girl of twenty, had a distinguishable force of character. Animated by true love or not, she could hardly do otherwise than accept attention showered on her in that spirit of hope which is common in the young of her sex. Henceforward her single-mindedness in the pursuit of one object attests her sincerity. If a heart counts for anything at all, some credit for this also must come into the reckoning.

The man was of another calibre altogether.

Man's love is of man's life a thing apart,
'Tis woman's whole existence.

It will readily be believed that William Yelverton was double in design, and, indeed, fundamentally base; and, though the unflattering portrait we now possess was drawn by himself in his amorous epistles, he cannot in all senses be deemed extraor-

dinary in his selfish attitude to the sexual problem of the ages. Economic pressure, reinforced by satiety, may cause love to turn to hate.

The letters in question, however, at first blush—and the world which had no business ever to read them affected to blush at them—appeared the strangest medley of gush and sentiment; a farrago of allusiveness, evasiveness, and sometimes of cantankerousness. Interchangeably connected in a curious hotch-potch, they were subtly flavoured by a woman's tuition, pervaded by a man's unattractive candour, and by this process rendered unique. Thus the affair went on.

Enforced separation in those martial days should have meant that love would grow fonder. Letters were necessary. Endearments were mutual.

"At Malta," so wrote the young officer, "the very stones got up and told me strange, wondrous things about you."

Theresa caught up his second name, and gave him the pet one of "Carlo."

"Carlo mio carissimo."

"Theresa mia cara."

The letters were studded with interpolations in Italian or French, one of which was destined to turn the scales of justice by more, perhaps, than "the estimation of a hair."

But other events were now moving which had a vital influence.

We turn from the written endearments of children in love to the national commitments of the Crimean War so far as these concern the tale.

Here, indeed, the romantics are entitled to conjure up an attractive picture of adventurous life. Old albums, newspapers, the novels of writers like "Ouida," the comedies of Robertson, are reminders of a period which will never be out of date, though in recollection they stand out quaintly now.

Theresa Longworth might be corseted, ringleted, crinolined. Or else, demurely attired, she might assume a suitable professional

garb in the service of her country, whilst sighing in her vivacious letters for the life of the *vivandière*.

Yelverton, on active service, smart enough as a soldier, appears heavily and uncouthly bearded, and is ready to play the *beau sabreur* to the life. Nevertheless:

It is the little rift within the lute
That by and by will make the music mute.

Thus, in due time, when certain rumours began to spread, Yelverton took up his pen as if it were a sword and wrote:

If you can find anyone of the male sex who calls himself a gentleman who has given you pain by the conjunction of our names, I'll make a point of getting leave to go down and fight him, as we are quite idle in that way.

And this was "before Sebastopol."

Miss Longworth had been full of yearnings and qualms. It had been the need of the hour, coupled with the lure of a personality, that had taken her out to Russia as a nurse; for which occupation, in those pioneering days, she was better equipped than many other women by reason of her conventual training.

Here, indeed, the young woman for a while scored heavily. At Galata the General and his wife, Lady Straubenzee, received her most hospitably as a friend. Henceforward they were to stand by her as far as they could. Naturally they soon became familiar with a situation that seemed to hold out the prospect of a marriage, although, like other people, they might question the wisdom of such a step.

The endowments of the Yelverton family were not quite in keeping with the pretensions of their rank. The young man himself had only a junior officer's pay. He was beholden to a stern and capricious relative for a moderate supplementary allowance. He had indeed little chance of ever becoming a rich man, whatever incidental dignities the Avonmore title might eventually bring.

And so a querulous attitude can be traced even in some of the earlier effusions. They became far more querulous later. He seemed to decline in ardour as a prospective husband, but he remained constant in asking for love. More, he demanded it.

How did Miss Longworth treat these dubious asseverations?

She noticed, with a woman's apprehensiveness, where so much was at stake, every sign of reaction or indifference. She is coy and challenging by turns. . . . She will give him his freedom. . . . She will retire into a convent. . . . Then, from the man's side, a professed devotion ebbs and flows, but, after a while, the elusive correspondence goes on again with unflagging spirit.

At one point, perhaps to test him, Theresa enclosed the wedding cards of some friends. They seem to have reached Yelverton at an inopportune moment. He had begun to waver in his intentions. Unblushingly, he affected to believe that these were her wedding-cards, of a type apparently now out of fashion, and he seized on them as a pretext to bring the whole affair to an end, in words of sober acceptance and mournful congratulation.

Her reply was hysterical.

The affair did not come to an end.

As she had written: "I cannot live without my dream."

She drew him to her again. The attachment that had begun was continued. The war ceased. Life, a joint life, of some kind, was evidently in prospect. Correspondence of a vivid type illustrated the terms on which the two parties suffered each other to exist during the following two or three years.

The next meeting was in Scotland.

There had been some talk, undoubtedly, of a possible secret marriage at Balaclava, to be negotiated by a Greek priest. But it came to nothing. It is only of importance because the suggestion itself might imply some kind of a promise. Certainly, whether then or later, Yelverton's promises might have been considered suspicious by her who received them.

But she would be likely to love on, in spite of that. His dubious conduct might possibly be explained. . . . He entertained no doubt as to his own manly qualifications. . . . He did not disguise

his desires. . . . But he was equally frank about his financial difficulties and the certain displeasure of his family. Thus toward his *inamorata*—they both loved these Italian expressions—he showed himself appreciative, fearful, unscrupulous, passionate: everything by turns and nothing long. The single-mindedness of Theresa herself remained. To this she added an unswerving tenacity. A good many questions were arising during this Scottish interlude. To put one of them bluntly, it was: Could she bring him to the church door? To put another succinctly: What was the actual relationship?

This part of the matter is full of puzzles, the intricacy of which it is our business to elucidate, especially in view of the interesting fact that the drama now transferred itself to Edinburgh.

Could they have thought of a secret marriage?

The Scottish laws of marriage are laws not to be trifled with. Their principles, so lawyers in Scotland have been known to affirm, are profoundly simple. The methods by which they are vindicated are different from those admitted by matrimonial usage in England. In this case, strangely enough, they were to be brought into contact with Irish custom, law, and religion—a complex alarming to think of. Eventually, might not even an alignment with English law have to be taken into account?

For the moment, however, I am concerned with Scotland alone. In Scotland we face certain facts.

A secret marriage in Scotland might hold validity which elsewhere would be denied. More would depend on those to whom it might be known than on those from whom it had been kept. At any rate, intimacy of a kind existed for a long time, an intimacy of letter-writing, of personal association, if nothing more. In Edinburgh, Miss Longworth did not live alone, but with a Miss Macfarlane. She was frequently visited by Yelverton, and the possibilities included the free-lover's intrigue; the preparatory experiment; or any other twist of the amorous train. Yelverton could write kindly, adoringly, but could also make it clear that he was sought after, and this made Theresa wretched. His brother officers might know of Theresa's existence, but they would natu-

rally be discreet about it, and Time would tell the truth about things that it was not their business to know. And Miss Macfarlane, under whose roof Theresa stayed, might have opportunities of judging facts more accurately than anybody else. It was at least during this time that the suggestion arose of a marriage under Scottish forms, and there was always a religious scruple in Miss Longworth's mind. What happened, then, as to a possible secret marriage in Scotland, remained in dispute for years. But this religious point first grew important, even vital, when Yelverton proceeded to Ireland, early in 1857, for four years had elapsed by now. In Ireland, Yelverton was at home. And Theresa here had the strongest affinity with Irish thought because of her faith.

I must pass very rapidly over meetings, journeys, avowals, and many little episodes which connected the two together as lovers. Whatever the reasoning or process of events that led up to it, a form of marriage was gone through between William Yelverton and Theresa Longworth in the month of August, 1857, in the chapel of a little village—Rostrevor—and a certificate was issued, signed by the parish priest, to the effect that the two parties had been joined together *in matrimonio legitimo*.

That would seem to have set the matter at rest, but there might still be a flaw in such a certificate, in view of a conflict between Church and State which had been going on for a good many years.

Undoubtedly, after the Rostrevor ceremony, the two were much together. They travelled in Wales, England, France. They stayed, recognisably, in hotels.

This went on till early in 1858, when Theresa, unacknowledged, whatever her status, began to complain of all the uncertainty that had become her portion—uncertainty and neglect. "*Cruelissimo Carlo!*"

She fell ill in France. Yelverton, absent, wrote kindly. It was a cautious kindness. His letters were addressed to her as if she were Mrs. Yelverton, but guardedly, and on secrecy he insisted more and more.

Theresa realized the situation. She might be deserted. And deserted she was. Presumably her illness had been from the most natural of causes. But meetings were over. Soon even the kind letters ceased.

Then, in the summer of 1858, the victim of these twists of fate received astounding news. A marriage had been performed between Major William Yelverton and a lady of the name of Forbes, herself the daughter of a distinguished officer. This lady had been but recently widowed. To Miss Longworth the information was imparted by a member of the Yelverton family who invited her to accept the position of a discarded mistress, and suggested that she should quietly depart to the colonies, where all would be done for her that could be done.

Time passed. The world heard nothing of these events for a long period of time. And then, by a devious route and under peculiar forms, the most remarkable marriage question of modern times was raised in an Irish Court, in the shape of an action for the recovery of money. This case is known as *Thelwall v. Yelverton*.

For now the Thelwalls come into the tale.

How, it will be asked, had Miss Longworth existed? Nearly three years had elapsed between the scene at Rostrevor and the action in Dublin. What had she been doing? What had her friends been doing? And Yelverton? Answers divide naturally: surmise on the one hand, fact on the other.

For Theresa—the surmises. She had sustained herself by the hope that something might be done, for certainly she was not friendless. She had been working hard to get some legal action taken. But formidable barriers had arisen.

For Yelverton—the facts. He was living at Edinburgh, received, of course, in Society, with a lady known by his name, who was indulging him with a family of children.

But who were the Thelwalls?

The Thelwalls were homely people who provided for Miss Longworth's needs and allowed her to run up a bill for necessary expenses. She wanted to gain the rights of a wife. People who

trusted her and supplied her with necessaries could sue her husband—if she had one. This simple action, no doubt, was contemplated long before it was taken. But there were two great impediments. The sea ran between. The Yelverton domicile was now in Scotland. Far-reaching differences separated the matrimonial laws of Scotland and Ireland.

Major Yelverton had skilled advisers. Every step that could be taken on Theresa's behalf could be met by clever counter-measures, by subterfuges, and even by ingenious denials of access to the Courts, simply because a marriage certificate could be produced in Edinburgh, proving the marriage with the widow. Theresa might be an adventuress, said the observers. Or she might not be. She might be a lawful wife. It was hoped that *Thelwall v. Yelverton* would solve the riddle once for all.

The case was opened in the Irish Court of Common Pleas in Dublin, where excitement reigned for ten days over the revelations of a trial which had no parallel. Chief Justice Monaghan was the Judge, Serjeant Sullivan being for the plaintiff Thelwall, and Mr. Whiteside for Theresa Yelverton, the name by which she was actually addressed when in the witness-box. She appeared to be "a young lady of superior intelligence and vivacity, with a face very sad in repose." Everything about her appealed to the susceptibilities of the jury. Of Yelverton it is enough to say that he appeared to feel his position acutely throughout the trial.

All the meetings and journeys and letters and innumerable episodes so far unrelated here, and immaterial for further exposition now, came before the Court. No doubt the letters were thrilling in a sense, but many inexperienced people held that the reading of private love-letters in Court was a mistake—that letters such as these, capable of so many interpretations, should be inadmissible in evidence. The testimony of many independent witnesses went far to establish the truth of the story which I have related already, and was in the main a proof that a woman had been too trustful and a man too audacious in deceiving her. This is not to acquit her of imprudence, or to elevate her to any high

position of moral worth. Probably her ambition was a mistaken one. But still she had herself to think of. The intrepidity with which she fought her case was wonderful.

The other side was equal in determination, but many witnesses were brought forward whose bias was manifest and whose words were discredited. No doubt was shown as to the rising indignation against Yelverton which permeated the atmosphere within the Court and outside. The affair became notorious as one which evoked such feelings that even judicial impartiality might be affected. . . . This would be all the better for Yelverton, if an appeal should be raised. . . . Socially and personally he was on the horns of a dilemma, with his rising family away in Edinburgh.

And the result was a victory for Theresa. After passionate forensic speeches which brought tears to the eyes of the susceptible Irish crowd, and after a summing-up by the Judge which concealed nothing as to his own opinion, the jury returned a verdict to the effect that the marriage was a valid one. The scene in Court was immense. . . . Barristers threw up their wigs. . . . The cheering was not suppressed. . . . The Judge beamed from the bench and very nearly joined in the demonstration.

Crowds, when Theresa emerged, took the horses from her carriage and drew her to the Gresham Hotel.

She addressed them from a balcony:

"My noble-hearted friends, you have by your verdict this day made me an Irishwoman! I shall live in your memories, as you do in my heart to-day!"

So, as the Honourable Mrs. William Yelverton, Theresa was hailed on all sides, her courtesy-title being bandied from mouth to mouth in every tone and brogue, whilst sentimental satisfaction flashed the news across the sea to Scotland. It caused bewilderment there.

The consternation of the lady's opponents was only matched by the interest of the public. It soon became evident that the matter was not finally settled, but would be made the subject of an appeal. Here was great material for lawyers.

There were, indeed, long delays.

The date of the proceedings in Dublin had been late in 1861. Scotland introduces the next phase, in the shape of rival actions before the Lord Ordinary, Lord Ardmillan.

Once more the whole story was gone through with every conceivable embellishment, from which the most salient fact emerging was that the curious Scottish law of marriage, thus evoked, could be interpreted in very different ways. It must be remembered that an Irish decision could not run in Scotland, and the jury had gone out of its way to declare that the lady they had declared to be Mrs. Yelverton should so be regarded also in Edinburgh. Further, special importance attaches to the fact that, by their verdict, the jury had declared Major Yelverton to be a Roman Catholic. But was he? He himself denied it. He had, in fact, no preference, really. The Yelvertons were Papists or Protestants, being a family with several branches; and, as an officer in England, Yelverton had favoured the Church of England or the Scottish Episcopal Church impartially. But in Ireland it was an offence for an Irish priest to marry parties in this way, unless both were of the same mind, as professed Papists. And this part of the issue was desperately confused. Wherever the truth might lie as to this, Lord Ardmillan could not acquiesce in the verdict given. He declared the marriage void under Scots law.

"This judgment," he said, "has not been reached without anxiety and sympathy for the sad fate of the pursuer."

So Theresa was defeated in that court. "Intense, persevering devotedness" the Judge had declared her to have exhibited. July, 1862, was the month of this happening. The indomitable woman began again.

The case was re-opened in the December of this same year, 1862. Great Labour awaited the Judges of the Court of Session. Those famous letters, with all their absurdities, were analysed and dissected yet again. Yelverton had hinted that Theresa had tampered with them by cutting pieces out and otherwise altering them: but the only expression which caused much extra strife

was in Italian—*sposa bella mia*—an admission that he regarded her as his wife—which the man tried to prove that he had never written. Otherwise, the correspondence only revealed itself as a tissue of sentimental nonsense, the quality of which could only be judged by amorous experts, and then by no means infallibly. In Dublin, Yelverton had interpreted these letters generally in his own way.

It was a very warm way. . . . He meant to seduce a woman's affections and let her look after herself after that. . . . He thought that a man's prerogative went naturally so far. . . . He considered a bachelor's life might be best; or else some secret arrangement, very well matched to his temperament, which was that, he said, of a savage. As she had written that she was unconventional, he conceived that she would accept the obvious sequel—that they should love freely short of marriage. More than one ebullition of his theories shocked the Dublin Court by its cynicism. In general, it may be said that he showed contempt for any rational or gentlemanly code in the pursuit of women.

But Theresa, by her actions, had proved that at least she wished for the regularising of her too rash amour. And when we turn away from the mere human feelings which underlay this desire, and go back to the law, it is interesting to see how far the individual Judges of Appeal were minded to treat the issues before them—issues which they repeatedly declared to be most serious, and collectively most remarkable.

The Lord Ordinary, in the Court below, had remarked on the case as being "of the utmost importance to the law," and had given to the pursuer more credit for adroitness than for wisdom. Now, in the higher Court, Lord Curriehill and Lord Deas, without committing themselves to any high encomium, found sufficient credit for Theresa, and sufficient substance in her plea, to justify her claim to be the lawful wife of William Yelverton. Lord Curriehill put the conclusion clearly: "I agree that there was a secret marriage, not to be known for some time. . . . Mindful of suffering to others, and regretful of the unconventionality, I

must pronounce them married." There were differences among the judges, but a majority decided in this sense.

And so Theresa Longworth was found to be Theresa Yelverton according to the law of Scotland.

The decision was received with great satisfaction in many quarters. Surely (it was thought) the matter might now take a rest. It did not.

There remained an appeal to the House of Lords. In the interval, no charge of bigamy was allowed against William Yelverton.

On July 28, 1864, the House of Lords—Lord Westbury, as Lord Chancellor, presiding—annulled the Scottish and Irish judgments given in Theresa Longworth's favour. They did so by a bare majority. Lord Brougham agreed with Lord Westbury that Theresa had made out her case, but in his absence his judgment was not received. Against these opinions were the decisions of Lord Chelmsford, Wensleydale, and Kingsdown.

So fell the blow which crushed all the hopes and the life of Theresa Longworth and gave, simultaneously, the highest legal sanction to the other marriage. Mrs. Forbes, in virtue of this decree, became Major Yelverton's lawful wife.

The decision arrived at by the House of Lords was thought by many to have been influenced by considerations of public policy, a notion that derives some slight support from the result of subsequent proceedings. For the end was not yet. In 1867 the decisions were reviewed on technical grounds yet again. The result was adverse to Theresa Longworth. Finally defeated, after going through four actions, she did not cease from prophecy, but declared in a spirited letter to the press that after these years of torture and delay she would and could fight on. . . . Had there been any child as the issue of this fatal entanglement, things might have been different. But there was nobody else to fight for. So Theresa succumbed. . . . She faded away from public view. . . . Major Yelverton had been suspended from his military duties in 1861. He spent the rest of his life unhappily.

In reviewing thus briefly the whole course of this lamentable affair, for it wrecked a woman's life, it is impressed very strongly on my mind that from the beginning Theresa Longworth was a victim of the differences in our matrimonial laws.

To bring the three kingdoms into line on many subjects has always been desirable, and we are still unsettled and uncertain here. But at the root of the final decision lies the application of a principle jealously guarded in England which discourages the secret marriage, and is all the more zealous in such cases for the observance of those outward forms which experience has shown to have a profound and real significance. The Irish and Scottish forms, being anything but flawless, stand out in aggravation of any irregularity committed on either side.

Legally, the vindication of principle often makes the hard case. We are very familiar with the fact. But nothing in this can rule out the human element, and in this aspect neither mercy nor pity may be withheld.

In the world's rough verdict Theresa Longworth won her case. Lord Curriehill thought so. Lord Westbury thought so. Lord Brougham thought so. We are too far away from the events described to place ourselves alongside the Irish Chief Justice who saw and heard these people and could judge them in their personalities; and we cannot interrogate any witnesses. But before those who were judging, the human factor became impressive. The majority of the judges, whether for or against the woman's claim, bore testimony to her ability and force of character, to her intense determination, patience, courage. And those who were adverse were adverse largely on technical grounds. . . . She had broken the rules. . . . So had the man; but he was the more responsible, after all. . . . And yet those rules, said the House of Lords, were necessary; deeply based, to be applied with due regard to the probabilities of the future, the heritage of posterity.

Theresa Longworth survived her legal misfortunes for some fourteen years after her challenge to the press—noted above—was given. . . . She had anticipated another struggle with the

Scottish law. but this was not to be. She left the country and died abroad.

A butterfly broken on the wheel? Not, at any rate, the butterfly of tradition. Hers may have been the spirit of the adventuress; but herein she was in a great company; and she did not flutter her life away. Amazing as the other marriage was, she provides the most amazing part of the whole story. Her resolution was immense. True, she had little to gain from a formalised union with a man who could not have made her happy; but a mere domestic ambition was not her only goad. She had to acquire a status if life was to be tolerable; and no woman worth the name, fooled as Yelverton had basely fooled her, could allow without a bitter struggle the name she believed her own to be filched by another.

The history of William Yelverton for the rest of his life is obscure. He duly succeeded to the title, becoming the fourth Lord Avonmore. He spent much of his time in France, and died at Biarritz in 1883.

Normal justice has no more to say to him, but poetic justice seems to have rebuked him, after brooding silently on the subject for a good many years. With the sixth Viscount's death, in 1910, the title of Avonmore became extinct. And that is the end of the story.

JONATHAN WILD

JONATHAN WILD

MANY criminals have owed their fame to some peculiar incident or accidental skill, but this man almost realised the novelist's conception of a master criminal, never committing actual offences, but exercising complete control of the criminals of a great city. For many years Jonathan Wild was almost the undisputed lord of the villains of London, and, if use had not dulled his sense of changing times, he might easily have retired to a life of dignified ease.

The times were favourable to the genius of the man. London had ceased to expand its civic boundaries, but the population still continued to spread over the neighbouring parishes. There was no adequate police system. No proper supervision of the haunts of vice or of prisons. No proper lighting, and, outside the city limits, very little attempt at local administration. It was not until Wild's career had almost ended that the Alsatias of London were finally destroyed and attempts were made by the city to light up the streets at night.

The criminal, pursued by the person he had robbed, could he gain but a short respite, would almost inevitably run to earth into some boozing-den where it was useless, and indeed dangerous, to follow him. The system of rewarding thief-takers had indeed caused certain undesirables to take upon themselves the duty of apprehending criminals and to seek the minor public employments where such rewards might fall to the holder.

Before the advent of Wild, the profession of thief in nearly all its ramifications was under a cloud. The common law had not placed too great an obstacle in the way of his reaping the fruits of his toil. As a rule a thief must sell the spoil, and the receiver came into conflict with the law only in the mildest way. If he received goods knowing them to have been stolen, he committed a mis-

demeanour, though, if the act of receiving amounted to giving the offender aid and comfort, he was also liable as an accessory after the fact. But under Dutch William the mildness of the common law was replaced by unsympathetic statutes. In 1691 all buying or receiving with knowledge that the goods were stolen was declared to make the receiver an accessory after the fact. Once Parliament intervened, legislation grew. Under Queen Anne the receiver was made accessory to the felony—a dreadful innovation, for thenceforward the receiver could be hanged as well as the thief. These statutory experiments made thieving an unprofitable business, for receivers became scarce and shy, and would not take the risks of their trade at rates which would profit thieves to run the risks of theirs. But London and the parishes near by were filled with a shiftless, hungry population, ready for plunder and disinclined for steady work.

It was on these conditions that Wild brought his genius to bear. His early life gave no hint of his future greatness. He was born at Wolverhampton in 1682, the eldest of the five children of a carpenter, a most respectable man, whose equally worthy wife sold fruit in the local market. They educated their children as well as they could manage, and, when he grew older, Jonathan went apprentice to a local buckle-maker. He served his time and continued as a journeyman. He seemed settled in life. At twenty-two he married, and soon became a father. But for some reason or another he tired of the provinces, and about 1695 he came to London as manservant to a lawyer. Of this avocation he soon tired, and in a short time was back at his trade in Wolverhampton. His return to his native town was not of long duration. Leaving his wife and child, he went back to London, this time as a journeyman. He soon fell into debt and was confined in the Wood Street Compter, a prison where felons, roysterers, and debtors of all ages and sexes were confined. In those days the prisons were a breeding-place for vice, and Wild soon learned all that there was to know, not only of crime, but also of the profits obtainable by the minor officers of the law.

He was not a beauty, and, moreover, was short and lame, but he

was civil and insinuating. His four years at the Compter were not too disagreeable. He pleased the keepers, who soon gave him "the liberty of the gate," and his consequent freedom to run errands enabled him to earn some money and to prove his willingness to oblige. In course of time he was made underkeeper of the "rats," as those brought in on night charges were termed. Nor in these duties was he deprived of the society of the other sex. He formed an intimacy in the prison with a debtor who went by the name of Mary Milliner and was supposed to be married. Her calling in life was that of thief and street-walker. The pair agreed so well that they arranged a partnership, and, obtaining their release, they set up a brothel in Lewkenor's Lane.

Wild soon changed the plan. He became tenant of an alehouse in Cock Alley, Cripplegate. He and his consort had formed a valuable acquaintanceship with the thieves of London. The success of the alehouse was assured. It was then that Wild's apprenticeship to vice at the Compter began to yield him profit, and he embarked on the career which led him to fortune. His advice was sought by his customers, who found it profitable, and so did he. Indeed, he obtained the greater profit, since, by taking no risks and advising them all, he necessarily gained more than if he had ventured forth with them.

Soon afterwards Jonathan and Mary parted. She had served his purpose. There was no quarrel, and afterwards she at times brought him business. Perhaps he was indisposed to share her favours with others. In any case he did not intend to live alone. His next woman was Betty Mann. She died, and Wild had her decently interred at Pancras Churchyard. When his time came to die, it was by her side that he desired to rest. Betty was succeeded by Sarah Perrin, alias Graystone, by whom he had a daughter. Tiring of her, he took Judith Nunn, and scandal whispered that to obtain her he had brought about her husband's execution. She loved him dearly, and when he died she attempted her own life in order to join him. But Wild's amours are no part of his claim to fame.

He had perceived that the risk of receiving lay in the taking

possession of the booty. But if a man never was in possession, then he would not receive. If, therefore, without handling it, he aided the despoiled owner to regain his property, there would be no capital offence. In fact, the very remote chance that an owner had of recovering anything made sufferers very willing to pay for regaining their goods. They would give more than a receiver. If Wild therefore could gain particulars of the theft and tell the owner where he could go and what he should pay, he ran only the risk of a common-law misdemeanour, the owner regained his property, and the thief, enriched by the money received from the owner, could well afford to recompense the benefactor who had done him this service. Wild's relations with the thieves enabled him to do so. He formed an alliance with Charles Hitchins, the City Marshal, and soon became known as the one man who could regain stolen property. His business increased until he was forced to open an office and keep a register, for entries in which he charged a fee of five shillings.

In 1715 he removed to the Old Bailey, in premises handy for the Central Criminal Court, and in 1717 took larger premises there. So large did his business become that he even opened a branch office in charge of one Mendez. Hitchins and he, however, did not agree, and like Peachum and Lockit, who perhaps were drawn from them, they quarrelled and parted. Hitchins pursued his enemy with pamphlets and abuse, but lost his job and was unable to contend with the other's superior business ability.

An illicit business such as Wild's required great skill and organising ability, in order that persons who were robbed should resort to him rather than to the rivals who sprang up round him. For this purpose he had to make sure of the thieves, and they needed to see that he obtained for them the best results. To effect this, he was bound to select such opportunities for theft as would suit the thieves' purpose—goods easily converted and owners ready to redeem. To fix such a ransom as owners would pay and would render the crime sufficiently lucrative both for himself and the actual depredators required a knowledge of values more extensive than that of any merchant in a particular trade, even if it

needed not to be so exact. And if the owners could not or would not pay the money stipulated, then the disposal of the goods elsewhere must be taken in hand. For this purpose, as possession in this realm was by law so dangerous, Wild arranged an export trade to Holland. He thereby found himself obliged to provide return cargoes, and as strong waters were best suited to this end, he became, for the greater profit, a smuggler of spirits.

With all this Wild, of course, had to keep on reasonably good terms with authority. The organisation of theft would, if justice were never to discover and punish a thief, inevitably lead to more stringent laws, a closer application of existing police precautions, and a better organisation to deal with offenders. Wild always traded as a thief-taker. It was profitable, since every capital conviction brought an agreeable profit in "blood money" to the informer, and it served also to keep his creatures in blind subjection. To show independence, to refuse to restore booty unless better terms were given, to resort to rivals, were all ways leading to the gallows. It has been calculated that in the fifteen years or so that Jonathan Wild plied his calling, he betrayed upwards of 120 to the ministers of justice. This praiseworthy activity for a time deceived the ministers of justice, who did not at first see that Wild was levying contribution on the community of London. It also gave him the entry to courts and gaols, and thereby made it easier for him to practise on witnesses and jurors, and so pervert the course of justice against a culprit whom he desired to be unjustly condemned or wrongly acquitted. But all this double dealing required the utmost dexterity and circumspection.

The scoundrels for whose exertions he thus found an outlet hated as well as feared him. There was one Joseph Blake, alias Blueskin, an associate of Jack Sheppard. Wild had initiated him into a life of crime, and spent time and money on his training. But Blueskin did not realise that his life depended upon complete obedience to Wild. On escaping from the consequence of one offence, he went off to act on his own. Wild soon found that Blueskin was the perpetrator of a capital offence, and had him apprehended. At the Old Bailey the culprit was spoken to by his

mentor, who promised him a good coffin at his (Wild's) own expense. Blueskin did not fully appreciate this kindness, and demanded a pardon conditional on transportation, for he was sure the great Wild could easily obtain that boon. He refused to believe that his doom was certain, and when Wild went on to urge him to repentance, saying that he would provide good books and counsel, the poor villain lost his temper, gashed Wild's throat with a knife and nearly killed him. This was towards the end of 1724, by which time the thieves of London longed for his blood.

Wild had, indeed, changed his methods. In the height of his prosperity the Government had perceived that the apparent benefactor was the real offender. An Act was passed in 1718 whereby persons who took rewards for recovering stolen property, and actually recovered it without apprehending the thief, were to be guilty of the same felony as the thief. Since in most cases larceny was a capital offence, this Act was a serious blow at Wild's profession. He therefore took to thief-taking as his main occupation, and this change rendered implacable the hate his victims bore towards him. In all ages the thief-taker tends to become an agent-provocateur, a tendency now well known and guarded against. In those days, when the unauthorised adventurer could for reward range himself on the side of justice, these safeguards did not exist. Wild, therefore, still continued to plan thefts whereby the stock of thieves necessary for his trade as thief-taker would be kept up. His former safe methods of avoiding the law had ceased to avail him, and he was inevitably driven more and more to the cruder forms of receiving. His ship oftener made the voyage to Holland. He did not, however, entirely abandon the now fatal plan of recovering goods without apprehending the thief, though he professed to refuse to do so for reward. Roger Johnson, the skipper, got into trouble for smuggling, and in January, 1725, was in custody. Wild came to the rescue and organised a riot under cover of which Johnson was enabled to escape. This was the last straw. A warrant was issued against Wild, who had absconded, but on coming again into the open in

the delusion that the storm had subsided, he was arrested on 15th February and lodged in Newgate, for the first and last time as a prisoner awaiting trial.

He was arrested for procuring the escape of a person accused of felony, but when the Old Bailey Sessions were opened further charges were made of organising a gang of felons returned from transportation and other highwaymen, burglars, shop-breakers, pickpockets, and of assisting them to dispose of their booty. The two indictments actually preferred at his trial on 15th May, 1725, were for stealing £40 worth of lace at the shop of Catherine Stettham on 22nd January, 1725, and for receiving on 10th March, 1725, a reward of ten guineas for helping her to recover the lace without apprehending the offenders.

Before his trial, Wild distributed among the jurymen and bystanders copies of a handbill claiming to have been instrumental in apprehending 35 highway robbers, 22 housebreakers, and 10 felons returned from transportation. He added that the list was not complete, and that it did not include shoplifters, pickpockets, and like lesser offenders. For this reason, so the handbill concluded, some who had escaped were in revenge endeavouring to have his life.

On the trial of the first indictment, Henry Kelly, the actual thief, told how Wild had met him at an alehouse and told him of the shop and took him and a woman named Mary Murphy there. While the woman haggled over a purchase, Kelly stole a box of lace. All the while Wild was waiting some yards away. They returned to Wild's house, and he offered them the choice of waiting till an advertisement came out or ready money. They elected for cash, and he gave them three guineas and four broad pieces.

Wild's counsel objected that the indictment charged stealing in the shop, but the evidence showed that he did not enter the shop. The Judge ruled that an accessory before the fact is a principal, and that a person who stands by to watch is as guilty as the actual thief, but added that there was some doubt and it was most eligible to incline to the side of mercy. It was a singular

observation, since the evidence, if believed, established that Wild was an accessory before the fact, a principal in the second and a receiver.

On the second indictment Mrs. Stetham, the prosecutrix, gave an account which will serve to illustrate Wild's methods. On the night of the theft she went as a matter of course to Wild's house, but he was out. She then advertised a reward of fifteen guineas and no questions asked. There was no result, and after a few days she called again and saw Wild. He got a description of the persons concerned and suggested a further call. On the next occasion Wild professed to have heard something of the lace and expected soon to hear more. As they were talking a man came in, and said that he had found out that the thief was one Kelly. On 15th February she again called and said she was willing to give twenty or even twenty-five guineas. Wild dissuaded her. The thieves, he said, had left town. He would set them quarrelling and she would then get the lace back cheaper. On 10th March, 1725, Wild sent to her from Newgate and told her to bring ten guineas with her. She went and saw Wild, who gave her a written direction. She could not read, and therefore gave this and the ten guineas to a ticket porter, who went away and returned with the lace, except one piece.

She asked Wild what he wanted. "Not a single farthing," he answered. "I don't do these things for worldly interest, but for the benefit of those poor people who have met with misfortunes. . . . As you are widow and a good Christian I desire nothing of you but your prayers, and for them I shall be thankful. I have many enemies, and God knows what may be the consequences on this imprisonment."

Seeing that all the while he had the lace and would gain the money paid, Wild must have been a practised hypocrite; and his audacity may be measured by the fact that he committed this offence while actually in prison awaiting trial.

His counsel made an unavailing attempt to save him by arguing that the Act only applied to those who were not guilty of the felony, and therefore, as the evidence showed that he took part

in the theft, Wild could not be convicted. This ingenious reversal of the argument in the former case was promptly overruled. The jury were left to consider their verdict on both charges. They remembered the Judge's hint and acquitted the prisoner of stealing, but convicted him on the second charge. He was therefore sentenced to death.

In the prison he declined to attend service, alleging his lameness and ill-health. He claimed to be a public benefactor in recovering stolen goods and procuring the arrest of felons, in which pursuit he had risked his life, often been beaten, and had his skull fractured in two places. He insisted upon the other prisoners keeping order in prison, and before the day of execution received communion.

On the early morning of the appointed day Wild attempted to cheat the gallows by swallowing laudanum. But to make sure, he took so large a quantity that he vomited it up, and thereupon defeated his object. In a comatose condition he was supported to the cart which conveyed him to Tyburn. On the way the mob greeted him with yells of execration and showers of filth. By the time he reached the tree he was nearly recovered, but the hangman busied himself with the others so as to give him more time. The mob suspected the executioner of an improper motive, and called on him to do his duty, threatening, if he did not, to knock him on the head. Fearing for his own skin, he gave immediate attention to Wild, and in a few moments the cart was driven away, and the criminal's last moments were embittered by the cheers and yells of a hostile crowd.

Wild was beyond doubt a man of very great capacity, and with an honest disposition might have achieved a great position. As it was, his very abilities rendered him the more dangerous to society, but his career leads to the reflection that a system which shut up a man merely for inability to pay his debts in a prison where he was forced to associate with the worst of criminals was well designed to pervert an abnormal man who had had no proper opportunity for the legitimate exercise of his undoubted talents.

He was not allowed long to remain by the side of his Betty. A few days after his burial the grave was rifled and his body re-

moved. For many years, indeed down to 1860, a skull and the remaining parts of a skeleton were on show, and the proprietor claimed that they were those of Wild. Now the remains have disappeared, and Wild's fame has been eclipsed by that of later but less able criminals.

BURKE AND HARE

BURKE AND HARE

BEFORE the Anatomy Act, 1832, both the student who aspired to be a surgeon and his preceptors were in a dilemma. It was necessary, before he could properly be qualified, that he should have a competent practical knowledge of human anatomy. To obtain that knowledge an adequate supply of bodies was essential. But it was not possible lawfully to acquire that adequate supply. It is true that from time to time the judges, when sentencing a criminal whose crime was more heinous or more brutal than usual, would add to the terrors of his last hours by directing that his body should be delivered to the surgeons for dissection. This was not a usual direction and could not in any case adequately supply the needs of students.

The law required that all bodies should receive Christian burial, so that, if the law were duly observed, schools of anatomy would operate only now and again according to the number of unusually atrocious criminals who were convicted of capital offences. There was and is no property in a corpse, but in every walk of life there are callous persons, and in this country among the lowest classes there was ample opportunity for unfeeling greed to make gain of death. A vagrant friendless stranger dying in a hovel would not be missed by anyone, and, if a surgeon would give money for the body, the dead man was no worse off and the exploiter reaped the benefit.

Owing to the separation of the profession into surgeons, physicians, and apothecaries, not all medical students then needed instruction in anatomy, and it was a frequent practice to qualify abroad. It was probably for these reasons that the want of anatomical specimens does not appear to have been much felt until the end of the Eighteenth Century. The trouble, one may conjecture, became acute on greater care being taken to see that the

intending surgeon was properly trained, and the large increase in the number of medical students during the early part of the Nineteenth Century only served to emphasise the inadequacy of the necessary supply of subjects. From selling unclaimed bodies to hoodwinking the relatives of deceased persons was but a step, and there arose a new and ghoulish occupation—that of Resurrection Man—followed by individuals who marked down the graves of the recently buried and exhumed them before the process of decay had rendered the corpse useless to the anatomist.

The professor and his assistants, pressed by urgent need, shut their eyes to the provenance of their subjects. So long as there was no evidence of foul play and the body was sufficiently fresh, they paid and asked no questions. The price rose with the demand; from about £4, it became £8, £10, or even more. The culprit, once he had delivered his dreadful burden, was thus ensured a rich return and close silence. It was not always an outsider who procured this booty. Zealous assistants and students were known to take upon themselves this horrible business and dig up their own supplies.

A man who was so dead to humanity as to traffic in corpses and rifle graves was close to another and worse temptation. If a homeless wanderer when dead was worth money and while alive was naught but a nuisance, it might occur to such a man that, if the waif died before his time without undue marks of violence, business could be done. We do not know that in England anyone fell into that temptation. In Edinburgh, two men did, and their names have ever since been held in lasting detestation.

The Medical School at Edinburgh had always held a high reputation and attracted many students. During the third decade of the Nineteenth Century they numbered hundreds, all of whom had to follow a course in human anatomy—and the legal allowance was one criminal a year.

The most frequent demonstration in anatomy was that of Dr. Knox, a man of the highest skill on his special subject, but otherwise undesirable. He had been an Army surgeon. He was conceited and cocksure and entirely without regard to the feelings of others.



WILLIAM BURKE
as he appeared at the bar



WILLIAM HARE
from a sketch made in court

And he was married to a woman of a much lower social standing than his own. But such was his reputation that he attracted most of the students, of whom 300 to 400 subscribed to his courses.

All the lecturers were well supplied with subjects, but none so well as Dr. Knox, who grudged no expense. Anyone who brought a body would receive from £6 to £10, and no questions were allowed to disturb the bargaining. Some of his assistants and students are known to have joined in the practice of exhuming corpses, but this did not account for all the supplies. It was known to all who cared to traffic that he was the best market, and he benefited accordingly.

We may assume that, though relatives might object, the manifest needs of the medical schools kept public opinion from resenting and resisting such practices sufficiently to prevent them so long as they were limited to the supply of dead bodies. But public opinion was certainly not prepared to wink at murder, and when, in 1828, it became known that four persons had been arrested on a charge of committing murder in order to satisfy the needs of Dr. Knox, the town was at once in a ferment.

The four were Burke and Hare and their respective wives or paramours. Burke, the most active and intelligent, was an Irish labourer, aged thirty-six, who had come to Scotland, deserting his wife and family, some ten months before. He was a short, brisk man, strong and active, superficially merry, but at heart cold, cruel, and grasping. He worked for a time as a navvy, and met Helen M'Dougal, a miserable, wretched woman, with whom he lived. By 1827 the pair were in Edinburgh earning a precarious living by buying old boots and reselling them.

William Hare was like Burke in race and age, but was taller and looked almost imbecile. He had also been a navvy, but in 1826 had taken up with an Irish widow, and the pair lived in Edinburgh in a wretched hovel, where they let beds to vagrants. It was a filthy, noisome den to which none but the lowest and most wretched had resort, and Hare and his mistress were in keeping with it.

On 29th November, 1827, an old Army pensioner died in Hare's

dwelling. He owed Hare £4, and had not lived long enough to draw his quarterly pension. Naturally, seeing that he was a lodger at Hare's, he had no one to see to his funeral. Hare, fearing a loss, thought that he could recoup himself by selling the body. He needed help, and sounded Burke, who readily agreed to assist. The deal was effected and Hare recovered his bad debt. So far all was well. They had been welcomed at Dr. Knox's lecture rooms and had been invited to come again when they had another body. The business was good, but they had no body. Soon the idea came to them that they could manufacture the necessary commodity, and this idea germinated.

On Monday, 3rd November, 1828, the newspapers contained paragraphs about the murder of an old woman whose body had been found and the arrest of the four persons accused of murdering her. There were hints of dark mysteries. Soon Edinburgh, and then the whole realm, was full of the discovery that the prisoners had followed the trade of murder for the purpose of supplying the anatomists. Dark hints were current that these scientists knew more than was healthy for them to know about the bodies brought to them for sale. All the four refused to admit any murder. The post-mortem examination was not quite conclusive. Though evidence was obtained that pointed to other murders, none of the bodies remained in existence. A month passed by and the Lord Advocate, convinced as he was that a brutal murder had been committed, was not convinced that he had available the necessary evidence to satisfy a jury. In these circumstances, it was inevitable that an attempt should be made to induce one at least of the accused to turn King's Evidence. M'Dougal remained dumb. Mrs. Hare was believed to be, and might well have been, Hare's wife, and so could not testify against him. As between Burke and Hare, the choice depended upon who was the principal offender. It was considered that Burke was the leader, and negotiations were opened with Hare. A promise of immunity at once secured his willing aid, and that of Mrs. Hare.

Accordingly, on Christmas Eve, 1828, the Court of Justiciary assembled to try Burke and his paramour M'Dougal. There were

three charges: to the murder of the last victim, Mrs. Docherty, were added two more—of Mary Paterson, a young and beautiful prostitute, and of Daft Jamie, a well-known natural. In fact, the trial concerned only the first.

Everybody wished to be at the trial and elaborate arrangements were made to keep order. The police were reinforced and the military forces were kept under arms, ready to intervene at a moment's notice.

The judges were the Lord Justice Clerk, accompanied by Lords Pitmilley, Meadowbank, and Mackenzie. The Lord Advocate led three juniors for the Crown. The Dean of Faculty led three more in the defence of Burke, and Henry Cockburn led yet another three for M'Dougal. Under the arrangements in Scotland for the defence of prisoners, the brilliant advocates who defended the prisoners acted gratuitously.

The proceedings started with an objection to the indictment in that it charged Burke with three unconnected murders, and also that his fellow-prisoner was not charged as being concerned in two of them. The argument was lengthy and learned. The judges held that the three charges would be joined in one indictment, but that the right course in the circumstances was to try each charge separately. Accordingly the Lord Advocate elected to proceed on the charge of murdering Mrs. Docherty in which both pannels were named. This election rendered it unnecessary to call Dr. Knox and his assistants, and proved to be a great disappointment. There were many things which called for an explanation, which, owing to the course of the trial, they were not required to give.

Both prisoners were then arraigned and pleaded not guilty, and the jury of fifteen were sworn.

The witnesses then gave evidence, the Scottish practice not admitting of opening speeches.

Mrs. Stewart proved that Mrs. Docherty came to seek her son, who had lodged with the witness. When she left on 31st October, 1828, she was well, and had been sober in her habits. Her name she apparently gave differently on different occasions.

William Noble proved that on the same day she was in a grocer's shop and met Burke there. Burke claimed to be a relation and took her away. Later in the day he came and bought a tea-box. The witness was shown the box in which the body was placed, but could only say that it resembled the original one.

In the evening Mrs. Connoway, who lived in the same building as Burke, saw the woman in Burke's rooms. She said that he had promised her a bed and supper, calling him Docherty, which was the name he had told her was his. There was a party at Connoway's, it being Hallowe'en, with Mr. and Mrs. Connoway, the Hares, Burke, M'Dougal, and the woman. After it broke up, a disturbance in Burke's rooms, which sounded like fighting, annoyed the Connoways for a short time.

Next morning Mrs. Connoway went into the Burkes and inquired about the woman. M'Dougal said that the woman and Burke had been "ower friendly together," so she had turned the woman out. Burke said that the woman had had a fit of "drink like," but she was quiet enough now. A witness, Alston, who also spoke of the disturbance, said that he heard a woman crying murder, but not as if she was in personal danger. Just as he heard that there came a cry as if a person or animal were being strangled. In cross-examination he expanded the calling into "for God's sake get the police, there is murder here." This was important, as the only three women present were M'Dougal, Mrs. Hare, and the murdered woman. Most of these witnesses identified the body as that of the woman who had come to Burke's rooms.

The first really interesting witness was David Paterson, the keeper of Dr. Knox's museum, who was called up by Burke at midnight on the 31st October and went with him. Burke and Hare and their women were there. Burke, pointing to the straw on a bed in the corner, told him that there was something there for the doctor. Next day Burke and Hare with a porter brought a tea-chest, which was left at the museum, and then Dr. Knox gave Paterson £5, which he divided among the two. On the 2nd November the police came, and he handed over the box, which was

opened and found to contain a woman's body doubled up. The witness judged that she had been suffocated or strangled. He knew Burke and Hare as men whom Dr. Knox had dealings with about bodies. The cross-examination was short, but the Lord Advocate appeared to be nervous about questions as to other transactions.

Then came another witness as to the events of the Friday night, chiefly important because he said that M'Dougal told him that the old woman had cried murder and had been turned out for an "old Irish limner."

Mrs. Gray and her husband, lodgers with the Burkes, had been turned out to make room for the woman, but were back on the Saturday. Mrs. Gray started to clean up, but Burke put a boy by the bed and told him to see that no one went near it. M'Dougal lay on the bed. At that time, unknown to Mrs. Gray, the body was lying on the bed under the straw. Burke went out and then the boy went. Mrs. Gray, who was suspicious, took the opportunity to investigate, and found the body lying naked on the bed. Both Mr. and Mrs. Gray inspected the body. As they went out, they met M'Dougal, who offered them money to hold their tongues. In cross-examination Mrs. Gray added that M'Dougal said, "My God, I cannot help it!"

After the porter and a police officer had given evidence as to the packing and finding of the body, the way was made clear for William Hare. Lord Meadowbank warned him that if he told the truth he would be clear, but if he did not, then condign punishment would follow. The Lord Justice Clerk warned him to give evidence only as to Mrs. Docherty. He told the story in detail: how Burke had come and told him he had an "ould" woman at his house who would make a good "shot" for the doctors. After the party the Burkes and Hares and the old woman went into Burke's room, and Burke and Hare pretended to fight. The woman called out for the police, but M'Dougal pushed her back. In the struggle Hare manœuvred to knock the woman down. Burke then bestrode her as she lay and pressed her head down. She gave a cry and moaned. As soon as she screeched, the other

women ran out. Then Burke put one hand under her chin and one over her nose. After that, seeing that she was dead, the two men stripped the body and hid it in the bed. Hare then said Paterson was fetched and told the rest of the story of disposing of the body. Mr. Cockburn cross-examined. No sooner had he asked about supplying bodies, than the Lord Advocate objected. The question was allowed, but only after discussion, and subject to a warning that the witness need not answer. And Hare took full advantage of that warning, as, indeed, he was fully entitled to do. He had to admit that he had denied knowing the dead woman.

The medical evidence as to the cause of death was called, and then Burke's first statement was read. In effect he said that Mrs. Docherty went away, but that afterwards a strange man brought a body and later came with a porter and took the body away, promising Burke two guineas for keeping the body. When it was put to him that the strange man was Hare he admitted it, but denied that the body was that of Mrs. Docherty. His second statement was to the effect that after the fighting Mrs. Docherty was missing, and on search was found in the bed, warm but dead, and appeared to have been vomiting. They discussed what they should do and decided to sell the body.

M'Dougal's statements denied all knowledge of the body and denied the conversation with the Grays. She insisted that she had turned the woman out.

This closed the case for the Crown, and, as no witnesses were called for the defence, the Lord Advocate addressed the jury at once. It was by this time late at night, the Court sitting to try the case out at one hearing according to the practice at that time. The Dean of Faculty followed for Burke. He endeavoured to explain that the evidence did not prove death by violence, and even then murder did not follow, as death by violence might be accidental, nor was it proved that Burke was the guilty party even assuming a murder. Mr. Cockburn rose at 5 A. M. He devoted his speech to the question of complicity. M'Dougal was not charged with taking part in the murder itself but with being

accessory to the act. He laid great stress on the fact that the evidence for the prosecution negatived M'Dougal's taking part in the crime.

Finally the Lord Justice Clerk summed up.

At 8:30 A. M. the jury retired and at 9:20 they returned. The Chancellor (foreman) announced their verdict. They found Burke guilty (13 to 2), and in the case of M'Dougal they held the offence not proven. The Lord Justice Clerk expressed his concurrence, and after a discussion as to the sentence the Lord Justice Clerk pronounced sentence of death upon Burke and discharged M'Dougal.

Burke was hanged, and by the practice of the day his body served the same purpose as the bodies of his victims. The Professor of Surgery publicly lectured on his dissection of the body, and the skeleton is still preserved in the Anatomical Museum at Edinburgh. M'Dougal went back to her lair, but, being recognised, was only saved from lynching by taking refuge in prison. Everywhere she went she was discovered, and eventually found refuge in England. She is said to have died in Australia.

Hare and his wife were detained for some time while attempts were being made to bring him to trial, but eventually he was released. It was known that he was in danger from the population, and the authorities, by a series of stratagems, got him clear of Scotland, though he had many narrow escapes on the way. It is not known what became of him, but there is a persistent story, adopted by Serjeant Ballantine, that, being recognised by fellow-workmen, he was thrown into a lime-kiln and lost his sight, and ended his life as a blind beggar in London.

Both Burke and Hare made confessions which agree in the main. It would seem that they worked at their horrible trade for ten months, and during that time disposed of at least sixteen bodies. Their most important murders were the other two charged in the indictment. Mary Paterson was a young woman of great beauty in face and form, well known to medical students. If the stories that were current are true, her body was recognised, and artists came to sketch it as it lay on Dr. Knox's tables. She was

alive and well only a short time before, and her body showed no signs of disease. If that be so, Dr. Knox and many others wilfully shut their eyes to obvious murder. Daft Jamie was also a well-known character and could not be mistaken. His foot was deformed, and it was said that, when search was made for him, Dr. Knox had his body dissected out of turn, and his chief assistant took off the deformed foot by which the body would have been identified. Naturally, once a body had been dissected, identification became almost impossible.

Dr. Knox brazened it out, but he had lost caste; gradually his classes diminished, and his efforts to obtain a professorship failed. At last he quitted Edinburgh. Eventually he drifted to London, and died at last as an obscure general practitioner. Although a committee, appointed by him and sitting in private, exonerated him from complicity, there is the gravest suspicion that he must have known that many of the bodies had been procured by foul means. It was hardly possible for a competent medical man not to have had at least serious doubts, sufficient to give him pause, and Dr. Knox's competence was far above the average.

This dreadful affair led to a change in the law. The Anatomy Act now regulates the supply of bodies to the medical schools, and care is taken that when they have served the uses of science these bodies are reverently buried.

It will be long before the memory of Burke and Hare will die out. Indeed, to the former it was given to supply the English language with a new verb, "to burke." ✓

COLONEL NICHOLAS BAYARD

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IN 1701 New York was the latest conquest of British arms, the one bright achievement of the Dutch Wars of Charles II. When the Revolution came, the colony adhered to William and Mary, but not apparently because of Dutch affection for a sovereign of their own race. Queen Anne succeeded William without a ripple of disturbance, and in the local factions Dutch and English names are met with on both sides.

New York was a prosperous State, sharing a Governor with Massachusetts, then a province much larger than the present State, and having a Lieutenant-Governor, Council and Assembly. The burning questions were the French, the Indians, and the pirates. What with the Comte de Frontenac menacing the North and North-West and threatening to work round behind the province so as to cut it off from the interior; the task of keeping the Indians quiet and preventing them from being cozened out of their lands; and the accusations and counter-accusations of favouring pirates which the citizens of New York City bandied about, the office of Governor was no sinecure, even when his Assembly proved tractable.

The head of one party was Colonel Fletcher, late Lieutenant-Governor, and Lord Bellamont, the Governor, had broken with him. In consequence Fletcher's adherents were removed from the Council in 1698 when the conclusion of negotiations with De Frontenac gave Bellamont some leisure, and a new Assembly was chosen more to his liking. Colonel Bayard lost his seat on the Council, and was thenceforth reckoned with the opposition. In 1699 he lost more than a seat, for the Governor went into the question of the Indian lands and revoked several grants to settlers, including Bayard's patent for a very extensive tract of country. As the Assembly granted supplies for several years, the

closing period of Bellamont's administration was comparatively calm. When he died, on 5th March, 1701, Nanfan, the Lieutenant-Governor, was away at Barbados, and until his return on 19th May the Council administered the Government of the Province.

When Nanfan took over the reins he does not seem to have considered himself a mere stop-gap until the King named another Governor. He formed a new Council, among whose members were Atwood, the Chief Justice, Colonel de Peyster, and Captain Walters, his puisne justices. In June the Assembly was dissolved and a new one summoned, the election causing lively disputes. The party opposed to Fletcher was in power and made use of its opportunities.

About this time the news came from England that William had named Lord Cornbury, the spendthrift heir of Lord Clarendon, to be the new Governor. He had sufficient trouble with his creditors to welcome the respite that the New World would give him. There he would find one party in power and the other seeking to gain his sympathies. Indeed, it was not intended that he should wait until he had landed before he found out what the position of local politics was. Colonel Bayard and some of his friends prepared three petitions or addresses, one to the King, one to Parliament, and one to the new Governor. They were engrossed, two of them in duplicate, and were open to be signed, first at Colonel Bayard's house, then at a coffee-house, and finally at Mr. Alderman Hutchins' inn. The Alderman also held the rank of captain.

What was in these petitions was not disclosed, but it was known that they complained of the appointments made by Lord Bellamont and reflected upon the honesty of the Lieutenant-Governor and the Chief Justice. The Council were very anxious to seize these documents. On 16th January, 1702, they ordered Hutchins to deliver them up, and three days later committed him to prison for refusing to hand them over. The committal was not over-reasonable, because he had returned them to Bayard, but the Council assigned as the reason for his incarceration that he had signed libels against the Government.

Events then moved very rapidly. Colonel Bayard, Mr. Rip

van Dam, and two others came on 20th January and personally delivered to the Council an address praying for the release or at least bailing of Hutchins. In the course of this address they mentioned Lord Cornbury, "whom we understand by certain advices we have received from England to be nominated by His Majesty to succeed the late Earl of Bellamont as our Governor." The purport of the request was that Hutchins should be released, because Bayard and his friends were responsible for the addresses and were prepared to support their lawfulness.

On being asked, they admitted that they had the documents and were ordered to return on the next day.

The delay was really due to a desire to obtain advice. The Attorney-General, Broughton, was consulted, and he advised in plain terms that no breach of the law had been committed.

This opinion did not deter the Council. Were there not three judges among the members? Someone recalled an Act of Assembly of 1691 recognising William and Mary as the lawful Sovereigns of the Province. The statute concluded with a provision that persons who should endeavour by force of arms or otherwise "to disturb the peace, good, and quiet of their Majesties' Government, as now established" should be deemed to be rebels and traitors to their Majesties and be liable to the penalties provided for such offences by the laws of England.

The Council were quite sure that this statute applied. The Lieutenant-Governor and Council were the Government, and this was a project to oust them. Moreover, the soldiers stationed at New York had been asked to sign. And, indeed, Colonel Bayard's address to the Council was itself treason within this statute, so the Council thought. It said that Lord Cornbury had been appointed to succeed Lord Bellamont. This was tantamount to saying that the present régime was unlawful and thus denying its authority. This sounds far-fetched, but perhaps was not quite so absurd then, when many remembered that on the Restoration Charles II dated his reign from his father's death in order to assert that the Commonwealth had no lawful power or authority. The Council's view, however, is just the same as if, on a colonel's

death, a soldier in the battalion should be accused of denying that the second in command had any right to command it merely because he discussed who would be appointed to succeed his dead colonel.

Colonel Bayard was arrested and sent to join Hutchins in the common gaol. The City Militia were called to arms, and a company told off each day to guard the prison. This duty, especially as defaulters were punished severely, caused great discontent, and eventually the Council deemed it wiser to dismiss the Militia to their homes.

On February 12, 1702, a special commission was issued to Chief Justice Atwood and to De Peyster and Walters, the puisne judges, to try these charges of treason.

The report is frankly pro-Bayard, and therefore does not necessarily do adequate justice to the prosecution. It does, however, seem high-handed to charge as treason what at worst seems only to have been sedition or libel, and to push on a trial which might have been left until Lord Cornbury could review the circumstances impartially.

On 19th February, 1702, the Court began its sittings. Twenty-four men, mostly of Dutch origin, to judge by their names, had been summoned as Grand Jurors, and twenty-two of them attended. The foreman was Johan de Peyster. Trouble began at once. Objection was taken that several of the Grand Jury had openly declared themselves hostile to Bayard, and evidence was offered in proof of this. Atwood, who throughout took the leading part, overruled the objection, and the Grand Jury were charged. The indictment charged treason under the Act of 1691, but Atwood, in addressing the Grand Jury, told them that it was also treason by the common law of England.

Next day, when the Grand Jury were about to retire to consider the Bill, Weaver, the Solicitor-General, proposed to attend their deliberations. Four jurors objected, and the Grand Jury broke up in disorder. The Court sat again in the afternoon, when Weaver made a formal complaint about the behaviour of the four, who were promptly discharged for misconduct. The Grand Jury, thus

diminished, but with the addition of one of the two who had originally made default, again retired, but their deliberations were prolonged in spite of furious messages from Atwood.

On 21st February the Grand Jury were brought into Court and the foreman handed over the bill marked "Vera Billa" (True Bill) and signed by him. The Grand Jury were at once discharged. The Chief Justice must have known that trouble was brewing, and thus prevented any protest. Bayard's counsel at once objected. Twelve jurors had not agreed to find a true bill, and eight of the nineteen, who had remained in Court, agreed that this was so. But Atwood ruled that there could be no averment against a record. Later he said that the jurors should have objected at the time, but he had given them very little opportunity. The objection being overruled, the Court adjourned.

On 2nd March Mr. Nichol and Mr. Emot, who had been assigned as counsel for the defence, moved to quash the indictment, both on the ground that twelve had not agreed to find a true bill and also because the Grand Jurors had not been summoned by virtue of precepts under the hands and seals of the Commissioners. These objections were overruled.

The indictment was then read. It charged Bayard with a design to procure mutiny and desertion and the signing of false and scandalous libels reflecting upon the administration and asserting that the subjects were oppressed, that the Government was rendered cheap and vile, that the Assembly was not lawful, and thereby inciting the people to disown the Government and to cast off their obedience. The prisoner pleaded not guilty, and the trial was fixed for 6th March. The Attorney-General was directed by the Council to conduct the prosecution.

When 6th March came most of the time was occupied in wrangles over the petty jury. Eighty men had been summoned, but many made default and were fined £10 each. At last twelve were sworn, but the prosecution was not ready. An application for an adjournment was granted, "the King's evidence being disguised with drink." It was a Friday, and the defence suggested Monday. No, said Atwood. He was not going to give Mr. Veasy

(the Minister of Trinity Church, New York) another opportunity to preach.

Accordingly the trial began on Saturday, 7th March. The Chief Justice inquired where was the Attorney-General, but that officer was not present. Atwood commanded that this neglect of His Majesty's service should be noted. It was no wonder that the Government was contemned when the Attorney-General behaved like this. There is a note that, of the twelve jurors, one was an alien, two were not freeholders, and the rest all Dutch or of Dutch extraction of no standing, some of them ignorant of the English language.

The Solicitor-General then opened in the style beloved of Jeffreys. Bayard, he said, was a malignant, the head of a faction, endeavouring to introduce Popery and slavery and making the place a nest of pirates.

Then came the evidence. The witnesses who were called spoke of three places: some signed at Colonel Bayard's house, some at a coffee-house, and some at Mr. Alderman Hutchins' tavern. The Solicitor-General found the memories of these witnesses as to the contents of the addresses extremely bad, and again and again referred to what they had said when examined before the Council. Hardly any witness could be got to say that the contents resembled the allegations set out in the indictment. The soldiers who were called all denied that Bayard was present. The only witnesses who did speak of him were those who saw him at the signing at the Colonel's own house, and they added that no pressure was put upon them to sign.

After the witnesses the petition to the Council about Hutchins was read, but the prosecution had been unable to get hold of the addresses or any copies. Then came a peculiar incident. The Solicitor-General asked that Mr. Emot, the junior for the defence, should be sworn, and then asked him if he had advised anyone about the petition to the Council. So he had, but not Bayard. He had been asked whether there was any objection to the wording of the petition, and had said that the words about Lord Cornbury succeeding Lord Bellamont might be seized upon by anyone

who wanted to put a strained meaning on them. He apparently did not raise the question of privilege. As Colonel Bayard was not proved to have asked for the advice, the evidence seems to have been quite inadmissible.

Then counsel for the defence raised the legal points. Mr. Nichol pointed out that there was a legal right to petition, and that there was a statute making colonial governors responsible for their misdeeds. The prosecution, he said, made complaint of high treason, and deprived the subject of his right to petition.

Mr. Emot discussed the law of treason in order to show that by no statute could the facts deposed to amount to treason. After the arguments came evidence as to the prisoner's character. Among the witnesses was the Rev. Mr. Veasy. A witness who was put forward was not allowed to give evidence because he had signed the petitions.

The Solicitor-General in his final speech limited himself to the issues of fact, not attempting to controvert the legal arguments. After the Chief Justice had summed up, the jury retired, but by the end of the day had not agreed.

On Monday, 9th March, the jury were brought into Court and asked for directions. Goelet, the foreman, read some notes of the evidence which Bayard protested were inaccurate. The Chief Justice declined to intervene after the jury were given in charge. He added that he had given the jury private answers as to the law. As to the facts, if there were any doubt that they amounted in law to the offence charged, then the jury could convict, so that the prisoner might raise the legal point on a motion in arrest of judgment. This brought Mr. Emot up with a vigorous protest. The Chief Justice proceeded to address the jury at some length, during which Mr. Emot made continual efforts to intervene. At last he was allowed his say, and, it proving to be concerned with the merits of the position, he was ordered to be silent. Mr. Nichol then tried to help, and Colonel Bayard, pointing out that the other two commissioners had hitherto been silent, asked that they should give their opinions also. No notice was taken of the request.

At last the jury returned a verdict of Guilty.

On 10th March a motion in arrest of judgment was made on the grounds that no overt act had been proved by the oath of two lawful witnesses, and, further, that the facts proved did not amount to treason. When counsel had argued these points the Chief Justice said that he could answer them offhand, but there would be an adjournment to enable the Solicitor-General to consider the points.

On 11th March Mr. Nichol argued that there was no overt act. The Chief Justice remarked that the jury were the sole judges of the evidence, and if there were any omission it was cured by the verdict. Naturally, Mr. Emot reminded him that he had, in the hearing of the jury, suggested a verdict of guilty, leaving the point of law to be argued, and he went on to submit that there was no treason. Finally he objected on the ground that two of the jury were aliens, and took two technical objections on the form of procedure. We are not told what the Solicitor-General's argument was, if he did argue, but the Chief Justice overruled all the objections, and the case was adjourned for sentence, after the prisoner had denied any disaffection or treason.

Next day Colonel Bayard wrote to De Peyster, the second Commissioner, accusing him of bringing about his destruction. When interrogated, he said that he had not taken his counsel's advice about writing.

The argument was by no means over. On 13th March, Mr. Nichol being ill, Mr. Emot argued (1) that twelve of the Grand Jury had not concurred in finding a true bill; (2) that several of the petty jury did not understand English; (3) that the evidence disclosed no treason. He offered evidence of alienage, but this was rightly rejected on the ground that objection should have been taken when the jurors were sworn. The Chief Justice having once more overruled these objections, Mr. Emot brought down the wrath of the Chief Justice upon him by asking that the other two Commissioners should express their opinions "so that we may know by what hands we fall."

However, Atwood consulted privately with the other two, and then announced that they all agreed.

The Chief Justice expressed his regret that Colonel Bayard remained impenitent and passed the usual sentence of death. Colonel Bayard asked if he might answer the Chief Justice's remarks, but was told that he might not, and was removed.

The Commission then proceeded to try Alderman Hutchins, and after a similar trial he, too, was found guilty and sentenced to death.

After some difficulty both men obtained respites, but though Hutchins was admitted to bail, Bayard was confined in prison until Lord Cornbury arrived.

The new Governor was not anxious to take sides immediately on his arrival. He did consent to a statute being passed reversing the convictions and procured Queen Anne's confirmation of that statute, but he made it a condition before doing so that the two men should give security not to take proceedings against any who had taken part in their prosecution.

Soon after this, Lord Cornbury espoused the cause of the opposition, and Chief Justice Atwood and Weaver, the Solicitor-General, retired. They soon found it convenient to remove to Virginia, whence they sailed for England.

Colonel Bayard remained in possession of the field.

WILLIAM COBBETT

WILLIAM COBBETT

ON 15th June, 1810, William Cobbett was brought before Lord Ellenborough, at Westminster Hall, on a charge of publishing a libel in his paper, *Cobbett's Political Register*. The alleged libel lay in a passage commenting upon the flogging of English Militiamen at Ely by German troops in the previous year.

To understand the sensation created by the trial—and, perhaps, the severity of the sentence—it is necessary to trace the career of William Cobbett up to this time. He was one of the most remarkable Englishmen of his day—one who, by his very individuality, was typical of his race. He was born near Farnham, in Surrey, on 9th March, 1763, the son of a small farmer, who also kept an inn, The Jolly Farmer. It is not unrevealing of the status of his family that Cobbett never properly knew the year of his birth, and usually post-dated it by three years.

His father was a man of character and industry. The son of a farm labourer, he himself had driven the plough as a boy for two-pence a day, but he had a desire to improve himself, and collected the rudiments of education. William was the third of his four sons, and, like them, took his turn at scaring rooks, weeding wheat, hoeing peas, and guiding the plough. From his father he learned to read and write. When he was fourteen he was engaged in the garden of the Bishop of Winchester at Farnham Castle. Hearing there of the beauties of the Royal Gardens at Kew, he trudged off to Richmond and obtained work in the Gardens, where his odd dress, while he was sweeping the grass beside the Pagoda, attracted the amused interest of another youth, who afterwards became King George IV. On his way to the Gardens Cobbett went without supper to buy a second-hand copy of Swift's *Tale of a Tub*, a book which accompanied him for many years on his travels.

After a time he returned to his father's farm, but, still ambitious, decided to enlist for a sailor. The captain of the vessel on which he sought employment misunderstood his motive, and told him that it was better to be "led to church in a halter" than run away to sea. After another six months on his father's farm, however, he made his way to London, where a stranger employed him for a few months as a clerk in an office in Gray's Inn. This sedentary life did not satisfy the country lad, and he went to Chatham to enlist in the Marines. By some error he found himself a private in a line regiment; for a year he remained at Chatham, and then spent six years in the garrison in New Brunswick.

Within a year of crossing the Atlantic he became the regimental sergeant-major; he learned a primer of English grammar by heart, and soon took over the writing of all the adjutant's orders and despatches. Typical is Cobbett's own account of their relations: "He made me *write*, while he pretended to *dictate*! Imagine to yourself me sitting, pen in hand, to put upon paper the precious offspring of the mind of this stupid curmudgeon! But here a greater difficulty than any former arose. He that could not *write* good grammar, could not, of course, *dictate* good grammar. Out would come some gross error, such as I was ashamed to see in my handwriting. I would stop, suggest another arrangement; but this I was, at first, obliged to do in a very indirect and delicate manner. I dared not let him perceive that I saw, or suspected, his ignorance; and, though we made sad work of it, we got along without any very sanguinary assaults upon mere grammar. But this course could not continue long; and he put an end to it in this way: he used to tell me *his story*, and leave me to put it upon paper, and thus we continued to the end of our connection."

These words, and this episode, are typical of Cobbett's attitude throughout his life, with the only difference that, after he left the Army in 1791, at the age of twenty-eight, he no longer troubled to hide his contempt for officialdom.

He recommenced civilian life by an attempt to expose corruption in the Army. There can be little doubt but that he was right in asserting that not merely the quartermaster, but other officers,

too, contrived to steal a considerable portion of the men's pay and allowances. He prepared his charges and forwarded them to the Secretary for War, whom also he interviewed. Eventually a court-martial was granted, but in the meantime his witnesses were tampered with, and, so he alleged, former comrades were suborned to accuse him of disloyalty and insubordination. Realising that his attempt to destroy the corruption which permeated the whole Army could not succeed, he did not appear at the court-martial. In his absence the prisoners were discharged, and Cobbett had lost the first round of his fight with authority.

He had just married. On his arrival in New Brunswick, six years before, he saw the daughter of a sergeant-major in the Artillery, a thirteen-year-old girl, scrubbing a wash-tub in the snow. Struck by her beauty and her industry, he said to his companion, "That's the girl for me," and immediately obtained her parents' consent to an engagement. The girl went back to England, where Cobbett sent her a hundred and fifty guineas, which he had saved out of his pay, asking her to keep them for him until his return or, if she were in difficulties, to apply them to her own comfort. When at length he came back to England, he found the girl a maid-of-all-work in an officer's household at the miserable wage of two shillings a week. "Without hardly saying a word about the matter, she put into my hands *the whole of my hundred and fifty guineas unbroken!*" They were married two months later, and Cobbett never had reason to regret his choice.

After the failure of the court-martial he thought it wise to visit France, where he taught himself the language, and the United States, where he stayed for seven years. During this time he taught English to French emigrants, among them Talleyrand, whom he suspected, probably correctly, of wishing to employ him as a spy. For the young Englishman was making his mark as a pamphleteer under the pseudonym of "Peter Porcupine." With an instinct for championing unpopular causes, he made it his business to defend his country against the attacks made upon her by American and English Radicals. The success of his pamphlets and an inevitable quarrel with his publishers made him open

his own bookshop in Philadelphia. It is typical of him that a large portrait of George III was the principal ornament of the window. After three trials for libels, he returned to England in 1800, a ruined man, and found himself the hero of his countrymen.

The Government offered him a share in one of its newspapers, but Cobbett refused the reward, which he regarded rather as a bribe. Ardent Tory though he was, he hated to find himself in unison with authority, and soon his views took on a Radical tinge. His opposition to the Peace of Amiens made him refuse to illuminate his house, and the mob broke his windows and smashed the door, damaging also his publishing office.

Slowly he evolved into a complete Radical. His weekly paper, the *Political Register*, mirrored his moods and views, denounced corruption, opposed the Peace, supported bull-baiting, defended the slave trade.

Characteristically, he left the business side of his paper to his partner, a man as unpractical as himself, and devoted his leisure to farming a piece of land at Botley, in Hampshire.

A wild antipathy to Pitt coloured all his writing. Even the statesman's death did not end his attacks. He declared that it was regarded by the people of England (i.e., Cobbett) as "the first dawn of their deliverance from an accumulation of danger and disgrace." He insisted that, since the dead man's memory was used as political ammunition by his supporters, it was necessary to continue attacking him; if the truth were not told about the dead, "away goes at one sweep all historical truth, and, with it, all the advantages therefrom derived, whether in politics or morals."

He threw himself into politics, enlivened several elections by his denunciations of Government jobbery and pensions, denounced the National Debt, assisted in the disgrace of the Duke of York, the Commander-in-Chief, and eventually made himself one of the men most disliked by the Government in the whole country. There can be no doubt that the Tories were eager to find a means of suppressing him.

Their chance came at last when he published an article in the

summer of 1809 about the flogging of certain recalcitrant Militiamen at Ely by German cavalry in the British service. The Attorney-General immediately threatened prosecution; Cobbett set the affairs of his farm in order and prepared to fight the case. But for once his determination weakened, and he parleyed with an agent of the Government, who suggested that the charge might be withdrawn if Cobbett recanted. Obstinacy, and, doubtless, fear of bad faith on the part of the Government, finally determined him to face his accusers, and in June, 1810, a year after the offence, he was brought to trial.

The jury was empanelled, Cobbett objecting to one of them as a foreigner. When the man protested that he was British born, Cobbett apologised, and the case proceeded. The Attorney-General opened for the Crown. In 1798, he explained, Lord Castlereagh had brought in a bill by which the Militia might be called out for twenty-eight days in any year, instead of twenty days, as previously. When the Cambridgeshire Militia was called out in 1809, some of them mutinied, and it was necessary to summon the military to check them. Five of the ringleaders were sentenced to five hundred lashes. The soldiers who were summoned were of the German Legion, Hanoverian troops in the British service, brave, orderly, sober men, said the Attorney-General, who had fought with distinction at Talavera.

He then read Cobbett's comment:

LOCAL MILITIA AND GERMAN LEGION

See the motto, English reader! See the motto, and then do pray recollect all that has been said, about the way in which Buonaparte raises his soldiers. Well done, Lord Castlereagh! This is just what it was thought your plan would produce. Well said, Mr. Huskisson! It really was not without reason that you dwelt, with so much earnestness, upon the great utility of the foreign troops, whom Mr. Wardle appeared to think of no utility at all. Poor gentleman! he little imagined how a great genius might find useful employment for such troops. He little imagined that they might be made the means of compelling Englishmen to submit to that sort of *discipline*, which is so conducive to the producing in them a disposition to defend the country, at the risk of their lives. Let Mr. Wardle look at my motto, and then say, whether the German soldiers are of *no use*.—*Five hundred lashes each!*—aye,

that is right! Flog them; flog them; flog them! They deserve it, and a great deal more. They deserve a flogging at every meal time. "Lash them daily, lash them daily." What, shall the rascals dare to *mutiny*, and that, too, when the German Legion is so near at hand! Lash them, lash them, lash them, They deserve it. Oh, yes; they merit a double-tailed cat. Base dogs! What! mutiny for the sake of the *price of a knapsack*! Lash them! Flog them! Base rascals! Mutiny for the price of a goat's skin; and, then, upon the appearance of the *German soldiers*, they take a flogging as quietly as so many trunks of trees! I do not know what sort of a place Ely is, but I really should like to know how the inhabitants looked one another in the face, while this scene was exhibiting in their town. I should like to have been able to see their faces, and to hear their observations to each other, at the time. This occurrence at home will, one would hope, teach the *loyal* a little caution in speaking of the means which Napoleon employs (or, rather, which they say he employs) in order to get together and to discipline his conscripts. There is scarcely one of these loyal persons who has not, at various times, cited the *handcuffings*, and other means of *force*, said to be used in drawing out the young men of France; there is scarcely one of the loyal who has not cited these means as a proof, a complete proof, that the people of France *hate Napoleon and his government, assist with reluctance in his wars*, and would *fain see another revolution*. I hope, I say, that the loyal will, hereafter, be more cautious in drawing such conclusions, now that they see, that our "gallant defenders" not only require physical restraint, in certain cases, but even a little blood drawn from their backs, and that, too, with the aid and assistance of German troops. Yes, I hope the loyal will be a little more upon their guard, in drawing conclusions against Napoleon's popularity. At any rate, every time they do, in future, burst out in execration against the French, for suffering themselves to be "chained together, and forced, at the point of the bayonet, to do military duty," I shall just republish the passage which I have taken for a motto to the present sheet. I have heard of some other pretty little things of the sort; but I rather choose to take my instance (and a very complete one it is) from a public print, notoriously under the sway of the ministry.

The "passage" was an official account of the mutiny and its suppression.

Cobbett's friends had begged him to be represented by counsel, but he chose to address the Court in his own defence. He put up a poor show. He was out of his element; effective though he was as a speaker at the hustings, his downright self-confidence and extravagant assertions were unlikely to impress a jury alarmed by Radical disturbances throughout the country. From the statements of eye-witnesses it is clear that his speech was too long and badly delivered.

He began by declaring that no man had ever been so calumniated as himself, and that His Majesty's Ministers were implicated in the attacks upon him. He referred to former trials, both in England and America, in which he had figured as defendant, and suggested that he was the victim of a conspiracy. Then he denied that there was anything in his article reflecting upon the King.

"Why, by and by, if a Minister is pelted in the streets with mud, we shall be told that the mud was thrown at the King, and not at the Minister!"

The whole object of his article, he said, was to ridicule Lord Castlereagh's Bill. "Are we never to complain of soldiers being ill-treated? If we see a soldier flogged to death, is no tongue, no pen, to move in his defence? My object was to cause the folly of Lord Castlereagh's measure to be done away with. A young fellow with a smock frock, sentenced to five hundred lashes for mutiny—but this was not a mutiny; it was a squabble about a marching guinea. I told Lord Castlereagh that by his measure he had just made these men soldiers enough to dislike labour, and yet not soldiers enough to cease to be labourers."

He would read, he said, what Lord Grenville had said in Parliament. Lord Ellenborough, the Judge, interposed with the observation that speeches in Parliament were privileged, and could not be quoted. Cobbett, however, recited the words of another Member, and was again stopped.

By this time he seems to have lost his temper and, with it, the thread of his carefully prepared defence.

He complained bitterly that foreigners had been brought in to chastise English Militiamen, and quoted protests in Parliament against the use of German soldiers by Charles I and William III. At the present time, he said, there were no fewer than five German generals in the British Army; nineteen colonels, and thirty-four thousand foreign troops. There was even a French officer on the staff in Sussex, and two other Frenchmen at a dockyard in Wales. "Why have these men been brought to superintend the lashing the backs of my countrymen?"

As for the Attorney-General's statement that the German Legion had behaved bravely at Talavera, this was directly contrary to the truth; the cowardice of the Germans had exposed English regiments to disaster, from which only the bravery of the 29th Division had saved them. What was more, these Germans had behaved with unparalleled licence when they were quartered in England. Some of them, for example, had drawn their swords in the most ferocious manner on a landlord in the Isle of Wight who refused to serve them with liquor.

Finally, Cobbett denied that he had any motive in wishing to subvert the Government. "Every advantage I possess is prospective—all my prospects, my property, my publication, even the very trees I have planted, depend on the continuance of His Majesty's Government; it is impossible, therefore, that any man can impute to me an intention so stupid, so absurd, so senseless, as to wish for the overthrow of the Government under which I live."

The Attorney-General replied. In a speech hardly less extravagant than Cobbett's, he again accused the latter of desiring to create general discontent in the country. One of Cobbett's motives, he argued, was to reproach and taunt the Cambridgeshire Militia with having submitted to be flogged. It was vain for him to suggest that what was in fact a most dangerous mutiny was merely a little disorderly conduct. Moreover, "the question before the Court and jury is not the merits or demerits of the German Legion. The question for the jury to decide is whether the mischievous paper which has been read had it not in view to hold up those brave men to obloquy and contempt, and to excite in the minds of the military disobedience and resistance, and in those of the people at large of this country a disposition to discontent and disaffection."

Lord Ellenborough summed up. He told the jury that, if the publication imported mischief, they were bound in law to conceive that mischief was intended. If anything was wanted to show Cobbett's real meaning, it was necessary only to refer to his own statement, towards the close of his evidence: "I should not have said so much of these Germans if they had not been brought into

this country to flog the backs of my own countrymen." But there could be no question of the defendant's purpose being ambiguous. His meaning was clearly that, if the Militiamen, with arms in their hands with which they could resist, endured punishment, they richly deserved whatever punishment they received.

As for Cobbett's address to the inhabitants of Ely, what else could it mean, asked the Judge, but a reproach to them for having passively witnessed the floggings? Did not the whole article betray a bad moral and political feeling? Was not its evident purpose to excite the soldiery against each other, and to excite the people against the whole Government and Constitution under whose laws the flogging had been inflicted?

"According to law," Lord Ellenborough concluded, "it is my duty to state to you my opinion upon any case submitted for your consideration. When I have doubts, I never decline to communicate those doubts, and when I differ in opinion from the prosecution, I have not hesitated to state that difference. But, upon this occasion, I must say that I feel no such doubt or difference, it being the confident certainty and full conviction of my mind that this is a most seditious libel."

The jury consulted for only two minutes before returning a verdict of Guilty.

A fortnight later Cobbett was brought up for sentence before Mr. Justice Grose, who declared that he had never known a publication more nearly allied to high treason; its consequence could not be contemplated without horror. Considering, therefore, the mischievous nature of the libel, the result it was likely to have, and the time at which it was published, the sentence of the Court upon William Cobbett would be:

"That he do pay to the King a fine of £1,000; be imprisoned in the gaol of Newgate for the space of two years; that he do then enter into recognisances to keep the peace for seven years, himself in £3,000 and two sureties in £1,000 each, and that he be further imprisoned till such fine be paid and sureties found."

Cobbett went to Newgate, where, the chief gaoler being one of his supporters, he was well treated and was able to publish his paper twice instead of once a week. His friends came forward with the money for his fine and the recognisances, and, on his release, which was celebrated by a great public dinner, his reputation and influence stood higher than ever before.

**THE MARQUISE
DE BRINVILLIERS**



THE MARQUISE DE BRINVILLIERS

MARIE MARGUERITE D'AUBRAY, Marquise de Brinvilliers, infamous as a criminal, famous as a victim, was born in 1634, so that nearly three hundred years have passed since her name first became known to history. This lapse of time increases alike the fascination of a mysterious theme and the difficulty of dealing with it, for remote villainy is difficult to track down in the face of many accretions of the legendary and fictitious. Where the craft of the poisoner is concerned, historian, advocate, judge, and psychologist must all tread warily. From all these points of view, the adventures of the beautiful Marie d'Aubray, Madame de Brinvilliers, constitute a leading case.

By his marriage, Antoine Gobelin—Marquis de Brinvilliers, Baron de Nourar—brought the family of d'Aubray no special advantage. The bride's lineage was higher than his own. The fortune of the Gobelins was really Flemish, and was derived from homely but widespread industrial success. They were sleeping partners in a famous business, and they were rising in a social world which the d'Aubray family had for generations adorned. Marie de Brinvilliers was a bride at seventeen. King Louis the Fourteenth, who always paid special attention to pretty women, was at this time a boy of thirteen, but by the time he was three-and-twenty, the Marquise, at twenty-seven, was beginning to attract the notice of many, and the observant monarch, not indeed so much as a man, but as the guardian of his subjects, soon found reason for making her the object of his more particular inquiries. Nothing happened suddenly. It would seem that for the first years of their married life the Marquis and the Marquise lived together in the mode suited to their station and brought up their five children tenderly. As happens in many dramas, a spell of calm came before the time of storm.

The age was extravagant. If you lived in touch with the Court, you had to live well. The d'Aubray family were accustomed to living handsomely.

The father of Marie, the Seigneur Dreux d'Aubray, held lucrative public appointments and wielded much influence. His estates were valuable and he had two sons to succeed him. His death in 1667, after a lingering illness, was the first of the mysterious deaths to become the cause of a general panic on the part of many who had enemies to propitiate or property to lose. If his death had been the only one to be accounted for, the long-drawn trial which we are about to consider would never have taken place. But in some ways the death of Dreux d'Aubray held the field of speculation last as first. He is the uneasiest shadow in our story. He is like the Ghost in *Hamlet*. There are times when he seems to be more real than Antoine de Brinvilliers himself. This man, the husband of Marie, was of another type altogether. All accounts show, in contrast to his father-in-law's respectability, the thorough-going *roué*, who came by degrees to allow his wife the same licence that he took himself with this mistress or that. If Monsieur d'Aubray thus overshadowed the Marquis in one respect, one, at least, of the lovers with whom Madame consoled herself overshadowed him in another. This was his friend and boon companion, Gaudin Sainte-Croix. He is no ghost, but the substantial villain of the piece, which lacks nothing in the attributes of sombre romance.

The antecedents of Gaudin Sainte-Croix are of no great importance, but he may well have been a bastard offshoot of some noble family. He had all the charm and swagger of the traditional Gascon, and by reason of his friendship with the Marquis, attained to a peculiar knowledge of the difficulties in which their reckless expenditure was involving them. Having gained influence over Madame, he proceeded to persuade her to embark on a scheme whereby her property would be separated from that of her husband. This brought upon him the wrath of her own family. Scandal was rife. The King was appealed to in his tutelary capac-

ity. The State and the King and the rights of family property were traditionally one. Sainte-Croix, under the privileged usage of a *lettre-de-cachet*, was arrested and thrown into the Bastille. The process was disciplinary rather than punitive, a measure of precaution. The arrest took place in March, 1663. Marie de Brinvilliers was now in her twenty-ninth year. The real adventure of her life had now begun, and for the next thirteen years the adventure was destined to continue, with disastrous consequence to many as well as to herself.

It seems certain that the episode of his imprisonment, short though it was, rankled with Sainte-Croix, who used the time to meditate plans of revenge, but plans, also, of advantage to himself, through Madame, with whom he resumed his *liaison* as soon as the six weeks' detention was over. Imagination—the sense of probability, rather—may dwell on these two personalities with profit for a moment. Marie de Brinvilliers was very much a man's woman, a pretty doll, blue-eyed, dainty, sufficiently subtle in mind to ensnare a man whilst allowing him to believe that he controlled her. Sainte-Croix had a game to play, a dangerous game, with plenty of fun attached to it, in a household divided against itself. He had no moral scruples, no particular respect for human life as such. His imprisonment had brought him into touch with a number of capable ruffians. Among these was a strange individual afterwards known as Exili, believed by the police of several countries to be an expert poisoner.

We may adopt the name by which he was so appropriately known. His true name was probably Eggidi. He appears to have been alternately under the protection of Queen Christina of Sweden and of the Papal Court at Rome. In spite of his vile reputation and even of his capture, he also was soon released. But his influence remained with Sainte-Croix. This latter, on obtaining his own freedom, struck up an acquaintance with a man of yet another type, but not less skilled than Exili in scientific experiments involving danger to human life.

This man, Christopher Glaser, had real repute among chemists. His discovery of sulphate of potassium stands to his credit still.

Some of his books are treatises that involved deep research and are proofs of a versatile, ingenious mind. He was an expert botanist, and he held an important official appointment in Paris. He even became scientific adviser to the King, as pharmacist in control of medical supplies to the royal household. The connection of Sainte-Croix with Glaser and with Madame was proved later on. If Exili passes out of sight obscurely, his connection also with the former prisoner of the Bastille, Sainte-Croix, must be remembered.

It was the age of the poisoner. If you were prominent, you took precautions against poison more persistently than against other dangers. The ways of poison-craftsmen were subtle. Against these, protection was only devised in fumbling fashion. But some simple antidotes were in common usage. Not only were poisoners subtle. They were slow. This fact is very important. For justice was slow, also. "You are decidedly confused about dates," said an examining magistrate to the most important of all the witnesses at the actual trial, which took place in 1676.

We must not ourselves be so confused. Certain facts have to be extricated from records extending over some thirteen to twenty years. The liberation of Sainte-Croix took place in 1663, but his friendship with the Marquis dated from 1660 or earlier. The murders in the d'Aubray family, if murders they were, actually occurred between 1667 and 1670, but the process would naturally be gradual if those who planned them were advised by experts. Between 1663 and 1667, Madame attended her father in an illness for which the doctors could find no name, and from 1663 onwards the association of Madame and Gaudin Sainte-Croix continues as an undisputed thing. Thus may the earlier period also lie under suspicion, a period during which crimes might also have been slowly planned. And this suspicion is intensified by the manner in which the two brothers of the Marquise died in 1670 and by what happened after they were gone. Then, only two women stood between Madame and the coveted domains of the d'Aubray family. One was Madame Villarceau d'Aubray, her sister-in-law, a

devoted, determined woman. The other was Thérèse d'Aubray, her sister, a pious nun.

There were, indeed, many reasons why Madame Villarceau d'Aubray should bestir herself. She had suspected Sainte-Croix from the first. Steadfastly she pursued a certain course, believing that it was her duty to avenge her father and her brothers. She acted with the help of sharp agents and shrewd advisers. They prepared to act. And yet they acted very slowly. It was not until late in 1672 that they effected the arrest of a servant, La Chaussée, a man who had been introduced as a servant in the d'Aubray family by Sainte-Croix himself. But it was not until 1673 that the Marquise was pursued with a warrant. She disappeared.

She had fled to England. Meanwhile, Sainte-Croix died. Like the alleged victims of all this strange embroglio, he passed mysteriously, unnaturally, out of life, possibly a victim of his own poisons. But of this we have no proof.

The Marquise was not long allowed to remain in this country. Her next refuge was at Liège, then independent, nor always amenable to the diplomatic representations of neighbouring France.

It is not the least perplexing of the incidents in this case that Marie de Brinvilliers remained in the Liège convent for three years with a single companion. Sustenance, to a certain point, she is thought to have had from her sister Thérèse, later to be declared one of her intended victims. Justice in her pursuit, meanwhile, was only half asleep. When the authorities acted, they had many reasons, beyond securing her condemnation, the necessity of which appealed to them in the interests of the general public and of peace in agitated Paris. So, first by solicitation of the powers at Liège, next by the clever machinery of French detectives, a scheme was evolved to capture the Marquise and bring her back to France. In the disguise of a priest, one of the most astute and fascinating of these detectives obtained admission to the convent, persuaded her to accompany him on a little walk by the river, and

then, with others aiding—for no risks were to be taken—seized her person and her effects. This journey to Paris was accomplished under an escort of cavalry. Those effects of hers, thought to be incriminating—many written documents being among them—were now safe in the possession of Desprez, the detective; and he triumphed further by intercepting some letters which Madame wrote on the way. At this stage, Marie de Brinvilliers knew that she must fight for her life. She tried to corrupt her guards with promises. She endeavoured to reach out for assistance, to escape again. The most important of her letters was addressed to one Pennautier. Of course it never reached him. Pennautier was suspected as much as she was. His financial dealings over the Brinvilliers affairs were compatible only with some devious design. Like Glaser, the chemist, he held a public position—in his case, one which involved many dealings with the estates of the clergy, from which he drew financial supplies and dealt with them as a moneylender; and it was generally rumoured that he, too, had some malign part in the organised removal of inconvenient personages. As to Madame's affairs, he might have financed her or her husband in trouble, innocently. But the intercepted appeal to him from the lady served only to bring further suspicion on them both.

After these events, the scene changed to Paris.

The case to be presented against Madame de Brinvilliers now involved a number of individuals, living and dead. Since the earlier events of her life—the doings of Sainte-Croix, the Marquis, Exili, Glaser, and others—were not comprised in the final indictment, they can be briefly dismissed. She was accused of the murder of her father and her two brothers and of attempting the life of her sister, Thérèse d'Aubray. But if she was to be convicted, some heed had to be paid to her training as a poisoner, to the guilt of her accomplices, and to the corroborative detail as to acts or character which would convince the world at large of her moral and individual guilt. There were improbabilities still to be accounted for. *Nemo repente turpissimus fuit*. In her defence it was

ultimately to be pleaded that she had never been wicked at all. The blame was thrown on others.

Authority, however, was bent on making an example of the Marquise. And so the trial began, in every way destined to prove a most tedious affair—exciting, of course, but intolerably drawn out. And the motive power behind the determination of the police and the fears of the King was still the widow, Madame Villarceau d'Aubray. The great Minister, Colbert, had sound reasons for striving to track down those whose dealings with poison menaced the safety of individual or city or State. And if the sensations of the populace are to be taken into account, a feeling was rife, not merely of insecurity and doubt, but of baffled rage.

It was believed, then, by her accusers, that the training of Marie de Brinvilliers as a poisoner had been a very real thing. After her first association with Sainte-Croix had brought disgrace, though temporary, upon him, she had taken up the benevolent work of attending to patients in the famous hospital of the Hôtel Dieu. Whether the superintendents of the infirmary connived at it or not, the deaths of inconvenient patients were very lightly regarded. Under special tutelage, associated as she was with Glaser and Sainte-Croix, experiments, to which she subsequently confessed, proved the infallibility of the methods of Glaser. For Marie de Brinvilliers came to speak quite casually of a preparation, probably of arsenic, known as "Glaser's receipt." In this period, many patients in the hospital died in agony. It can hardly be doubted that such conscience as she might possess was by this time wholly deadened. And yet there could be little of these facts or surmises attachable to the indictment which all the force of the law was now prepared to press against her. And we ourselves, in the absence of living witnesses, can only read the documents that have survived with the eyes of probability. Nevertheless, though dead, Sainte-Croix, like La Chaussée, the servant, or Briancourt, the tutor, may still speak quite clearly as to the issues before us. So does the fervent priest, the Abbé Pirot, who brought the highest sacramental influences to bear on the strange psychological problem involved. It was a theological problem, too.

In those days, in France, the arraignment came before a court partly civil, partly ecclesiastical. A wrong against the individual or the community was also a sin. But there were intensely strong persuasions, of a spiritual character, which might either intensify or diminish the powers of a court. Before any conviction could be legally possible, by simple pleading, or by the exercise of casuistry, much might be hidden from the judges which in their secular capacity they might wish to hear.

If the charges of the indictment actually presented against the Marquise were few in number, they were sufficiently dreadful. It was reasonable that they should be concise. The hunting down of the accused had lasted for years. Some measure of admiration may be given to the cleverness which had eluded pursuit, and then, after capture, had used every device to prevent a trial. But between April and July, 1676, the whole matter came to a head.

Triple or quadruple in form under the warrants issued, the affair was really, so the prosecution averred, a single crime when the motive came into the light, for a desire to possess property was at the base of all these acts and attempts.

The prosecution, in fact, went a good deal further than this. We are all fairly familiar with the distinction in French and English law by which the Courts incline on the one side to the guilt of anyone accused, on the other to his innocence. The examining magistrate, in the Brinvilliers case, had evidently a great deal up his sleeve. He anticipated what the presiding officer in an English Court would keep to himself. He was primed with knowledge, which is much the same thing, now and again, as being primed with gossip. And then his place was taken, with manner more aggressive yet, by the *Procureur-Général*, or Public Prosecutor, who had any number of damaging suggestions to make; worse still, secrets to reveal.

For a long time, in fact during several months, the Marquise had to defend herself. She did not lack resource, energy, or composure. Some things she seemed only too willing to confess. Her

embarrassments, for instance. She did not deny her own excursions in the realm of free love. Her caution under any public or semi-public ordeal was only equalled by her incaution when left to herself. Had she not written indiscreet letters on the journey to Paris? Was she not now in the Conciergerie, a prisoner, still communicating, as far as she could, with possible friends? The net was closing round her. La Chaussée was being put to the torture afresh, after confessing his own guilt. Pennautier, who had tried to escape, as Madame had done, was under arrest. The history of thirteen—nay, more, of twenty—years was being unravelled, Madame Villarceau and many other interested persons actively aiding. The cleverest assistants, experts in crime, students of criminology, catchers of desperadoes, worked incessantly in this one cause. In so doing they were working against poisoners at large. No doubt their name was legion.

The prisoner, from now onward, is seen to be alone. La Chaussée, it is true, passes out of the story, like Exili, Glaser, Pennautier: the first by death, the others tainted, but personally unscathed. La Chaussée, however, even under torture, refuses to implicate Madame. Sainte-Croix, a dead man, is far more deeply implicated as an accomplice of hers. It is his voice that rings more loudly than any other, right through to the very end.

But the Marquise had to be confronted by some very necessary witnesses. Naturally, the most important of these were men and women who had been in her own service. They were creatures for the most part of quite trivial reputation, and if the servants of the d'Aubray family, who were also called, showed a bias half-natural, half-instructed, this is not to be wondered at. One witness, however, was of different calibre, the tutor, Jean Briancourt. He, too, had been arrested for complicity. His appointment in the De Brinvilliers family had begun in the lifetime of the last of the brothers, the counsellor d'Aubray. It might be doubted if he ever came in personal contact with him, but it was certain that he must have known a great deal about him. His own intimacy with the Marquise had been of a very peculiar kind. He had come to govern her children. He had remained for her to govern him. Facts now

came to be discovered which give him, though weak, considerable credit as a man. He showed some moral courage when confronted as a hostile witness with Madame herself in her most cunning and confident mood. She had answered the common witness glibly enough. Now a greater boldness was needed, and she was not found wanting here. The man and the woman went for each other with bitter repartees.

That the house into which he had been introduced was one of jealousy, intrigue, and death these duellists in words took mutual pains to prove. Briancourt explained to the Court what was the nature of his own remorse in playing such part as he had played, in concealing danger to others, which was all he knew of the truth. It was only now, trained as he was to the law, a barrister, an officer himself of the Court, that truth appeared absolute and paramount in its claim upon him as a man of honour. He told how he had played a man's part, as far as he could, in the midst of jealous scenes. Between 1670 and 1672 he had discovered the villainies of Sainte-Croix. He did not pretend that either he or the notorious Gaudin could secure any fidelity on the part of the Marquise. Frankly, they were rivals with another man, the Marquis de Nadaillac, for her favours. Briancourt alone attempted to check her career of secret crime. Yet she had persuaded him, cajoled him, made him her slave, so that he had abandoned even honour for her sake. He had, indeed, at length quitted her house, realising her guilt in its fullest horror, yet unable to avert any doom from any possible victim.

Briancourt rendered other testimony. He showed up the equivocal position of the husband, with Sainte-Croix still dancing attendance. He recounted how Madame had brought the news of her younger brother's death from his home, where she had attended him in his last days. He learned from her own lips how the deaths of all her family had been designed and carried out. She had admitted her full share in these crimes to him. And now he opposed her in the Court, with this—her own confession.

Madame retorted against each point by a vigorous denial.

Briancourt she denounced to his face as a dissolute rogue. Physically strong and brilliant, mentally alert and daring, she succeeded in throwing doubt on some of the tutor's assertions, and these were searchingly tested by the judges, with every show of strict impartiality. But they had heard too much, and they knew too much, to find in what Briancourt now told them anything but the last straw of proof requisite for the condemnation of the Marquise. His personality had impressed the Court. His sense of shame had convinced them. It was clear, after Briancourt's evidence was closed, that the Marquise would be condemned.

But the judges had yet to consider a defence which had been presented to them in legal form. At what time it was delivered to them it is impossible to say. Framed by one of the most ingenious lawyers of the day, this powerful plea has come down to us in its entirety. It was known as a *factum*. Its lightest contentions are of some value. Its weightiest almost persuade the mind that the condemnation of Marie de Brinvilliers may have had a flaw in it. The whole thing is a masterpiece of pleading.

Maitre Nivelles did not deny that the unfortunate Marquise had lost her relatives amazingly. But a poisoner? A deliberate murderess? Why, her position, character, goodness, education—admitting some waywardness or imprudence—were in themselves presumptive proofs in her favour.

Imprudence, yes, as regards Sainte-Croix, that consummate villain, the real perpetrator of these murders—yes, such must be admitted. But here observe the contention which lay at the root of the charge against Madame. She would profit. How could she possibly profit? Her embarrassments would prevent this. Nothing, in fact, could be worse for her than a change in the succession. If she came near to profiting, the rights of Madame Villarceau d'Aubrey alone, because of her dowry, would stand in the light.

Maitre Nivelles never denied that the deaths in question were murders. He was only concerned to defend the woman accused by showing where the blame really lay. The casket, the letters,

left behind by Sainte-Croix, whatever they contained, were nothing whatever to do with Madame. There had been a plot, a series of plots, for his own advantage, engineered by Sainte-Croix, who had attained to a power over the Marquise of such a kind as to blind her to the very nature of his secret work. It was not denied that by means of this power Sainte-Croix might have hoped to gain ultimate control of some property, but if he thought he would obtain much, he had only deceived himself. His deception of an unsuspecting and—as to men—a defenceless woman was of another sort altogether. Here she would not admit to guilt, only to weakness. She had herself found no happiness in marriage. She had not thrown her bonnet over the mills without provocation. Her whole proceedings, in connection with Sainte-Croix, had been those of a woman fascinated, bemused. So, with a further denunciation of Sainte-Croix, in which he appeared as a poisoner notorious as well as self-confessed, Maître Nivelles quitted this part of the case.

It was said that Madame had fled. What of that? Were not her embarrassments, her debts, incurred for her by others, a sufficient cause for her distracted state of mind? Fear alone had prompted her flight. It was flight from worry, anxiety, distress, occasioned by the persecution of creditors. Never had it been a flight from justice. She had made no other admission. A confession, indeed, might be wrung from an individual by fear, but to that they were not yet come. They had before them, indeed, the confession of one La Chaussée, that miserable servant, paid by Sainte-Croix. Even under torture, no admission affecting Madame had escaped his lips. This was worth analysing. A confession might at last become of value if, in spite of such terrible pressure, the innocence of another was the final thing declared.

It was obvious, then, that nothing had so far been adduced in any way relevant to the supposed crimes of the Marquise. These assumptions, the just and noble judges, on reflection, would dismiss. And what could be said further of the evidence? Worthless, as against her, all of it, because of the character or the motives of those who brought it forward. Drunkards, dissolute persons, pre-

judiced menials, paid informers. What most of these accusers had said resolved itself into speculations about poisons and caskets, suitable only as trimmings of some spurious romance.

In spite of what Maître Nivelles had put forward on the subject of confessions, it was to confessions that he had to devote the latter part of his appeal. He dealt at great length on the seizure at Liège, denouncing it. Desprez, the pseudo-priest, had, in fact, at this time secured a confession, and this was in Madame's own handwriting. This document was one of the strangest that had ever come before a court of law, and he was prepared to submit that it was just the kind of document that a court of law should not consider. The venial offences of childhood were written here. Disorder of life, as conceived by religious minds, was frankly written here also. Then followed self-accusations, poignant but utterly unconvincing. They were a full catalogue of cruel and criminal offences: "I accuse myself of having poisoned my father, through a servant." "My two brothers I poisoned, and a servant was broken on the wheel for this." "I attempted many times to poison others of my relatives, women and men, and even one of my children, but of this last act I repented." "I admit my intrigues with Sainte-Croix and others, but I assert the activity of Sainte-Croix and his helpers in all that was done." "I desired the possessions of others of my family in order to set my estate in order." "I make this confession to God, and to you, my father, under seal."

Such was the paper found at Liège, produced triumphantly by Desprez, and now derided by Maître Nivelles. It is a classic among the revelations of criminals. But here a solemn, exclusive, sacramental privilege was pleaded. "I confess to God, and to you, my father." The confession surely broke down. Sacred custom and observance demanded that nobody—least of all a court steeped in ecclesiastical tradition, should recognise it or even read it. But then, suppose that it were read, and then without prejudice? Look at the improbability of the thing—the sheer improbability. What did they really behold in a woman who could

thus accuse herself? Those self-accusations would never hold against her. But they could be explained.

At this point Maître Nivelles pressed, alternatively, theories of the ridiculous and the hysterical. Facing the errors of her life, an exaggerated sense of the sins she believed herself to have committed, combined with the hatred by which she knew herself encompassed, had induced this complete morbidity of soul on the part of the Marquise. It was impossible to believe what was here asserted. Women, especially, were subject to hysteria in many different forms. This woman threw herself on the court, asked for protection, even against herself. They, by their piety, in the exercise of their discretion, and in the cause of truth, would clear her of all stain save her family honour. And their probity, as judges, would be transmitted to admiring ages.

The judges ignored the *factum* and pronounced judgment of death. They found the Marquise guilty of poisoning her father and her two brothers and of attempting to poison her sister. They ordered that she should perform a public act of penance, that her property should be forfeited, wherever possible, to those whom she had wronged, and further charged it with heavy fines to Church and State. She was to submit to torture, in order that the names of all her accomplices might be revealed, and then she was to suffer execution in the public market-place. Her body was to be burned. The ashes were to be scattered to the winds.

The whole of this tremendous sentence was carried out during the five days which followed. How far the ordeal of torture was undergone will never be known, but it was believed to have been faced and to have been without result. An astonishing resolution was shown not to involve others further in the crimes that had been committed. The rumour spread that Marie de Brinvilliers was proving herself a heroine. Her penitence shone, contrasted with the cynicism of those who had gone before her. They had been unrepentant. In her prison, indeed, the Marquise was persuaded to listen to the counsels of a noble priest, the Abbé Pirot. And so she met her fate.

All Paris was astir when the execution took place. This happened on 17th July, 1676. If precautions had not been taken, after penance had been accomplished at the porch of Notre Dame, the crowd would have torn their victim to pieces. But the tumbril was adequately guarded. Her end, after accepting the consolations of religion, she faced with calm. The body was taken through the Place de Grève and burned. The ashes were thrown into the river, as decreed, and Paris felt relieved. The trial had filled the whole city with unspeakable fears. Safety, in all classes, was involved in the satisfaction of that justice which had closed the life of the Marquise de Brinvilliers.

And yet, was justice done?

The judgment of an age remote from our own has some attraction but carries no impression of infallibility with it. Few trials exhibit more clearly the divergence between the customs of French and English law than this, and the difference is one rather of custom than of principle. The judges of Madame de Brinvilliers were her accusers, and they disclosed much that they knew during a long process which held her at a certain disadvantage. But this is done, in criminal proceedings, in different ways, the world over. The vengeance which they exacted, believing this to be necessary in the public interest, lacked nothing in brutality. But our own law, at that date, was quite as fierce in its terrors, and the same publicity attended its enactment. Though we committed ourselves to a preference for the jury system, our police are allowed to reveal the past history of any convicted criminal at the suitable moment. In France, such revelations have been generally allowed while the proceedings pend, and it is manifest to all who have read the documents that here the culprit was condemned in advance.

The last word in such a case may well rest with the professors of ethics or of religion. In psychology, Marie de Brinvilliers may be dismissed as the victim of her own nature, but more still of the stronger influence of the man Sainte-Croix, for under this she most undoubtedly came. These two are to be regarded as collusive

criminals, the one as wicked as the other. The temperament which succeeds in blinding the eyes and the mind to human suffering is not unknown at this day. Poisoners are comparatively rare in this country, but their race is not extinct, nor is their insensibility a thing that we can disregard altogether. A poisoner may still go through life undetected, not so insensible to his success but that he may rejoice in it.

For a time, success of this questionable kind attended the Marquise de Brinvilliers. It is something that she met her doom courageously, that she showed some remorse under priestly persuasion, and perhaps there may be some faint satisfaction in the pity which afterwards arose even for her. Her penalty should have been shared, it was thought, by others. But the rough and exemplary forms of justice, thus vindicated, had their uses, in a day which needed an example. Living in that day, we should have agreed with the decision of the judges, and have breathed more freely, had we been English or French, when the scene in the Place de Grève was over.

LANDRU

LANDRU

LANDRU was arrested in April, 1919. He was suspected of murder, and it was alleged that he had possessed himself of ten women and their property and then made away with them. The war was just over, and the world was only too well acquainted with death and the loss of property. Yet his case excited great popular interest and is still remembered. Some part of this interest must have been due to the reaction after the war. Landru was a murderer of the times of peace, and his arrest was an assurance that the war was over: much as the relief of the shipwrecked sailor who, seeing a gallows as he struggled ashore, thanked God that he was in a civilised country.

The proceedings against Landru were, however, more than a mere indication that France was herself again. There was the matter of sex, always a complication which excites attention in any proceeding. The impudence and wit of the man, coupled with his determined refusal to give any information about the charges—and that refusal is rarely found in criminals subjected to the refined methods of interrogation in France—the multitude of women whom he had betrayed and robbed, and the fact that his method of destroying the evidence of his crimes left the very question whether there were any murders at all a matter of doubt: all these circumstances combined to focus, and keep focused, public attention upon Landru during the two-and-a-half years that elapsed between his arrest and his execution.

What manner of man was this murderer? He was born, as such men usually are, of respectable parents. They were poor people living in Paris, where he was born in 1869 and lived an undistinguished life until 1904. He had the usual education. He had been a chorister and server at his parish church. As a conscript he had done well, and rose to the rank of sergeant. He married and

had a family. He earned his living somewhat precariously in garages and the second-hand furniture trade.

In bodily appearance he seemed, in 1919, hardly adapted for the rôle of seducer. He was short and dark, with a bald head and ample black beard just streaked with grey. But his manner was insinuating and his words plausible. No doubt a man cleverer than his neighbours on the surface, but lacking in solid worth, is naturally tempted to employ his glib tongue in making easy money. At all events, Landru succumbed, and on 21st July, 1904, there was recorded his first sentence for swindling. Four more followed, the last being one of four years on 20th July, 1914. He was therefore in prison when the war broke out.

We are not told how it came about that in six months or so he was free again. We may conjecture that the ex-sergeant was released in order to join the French army, but during the war he seems to have wandered about in a motor-car, living at various addresses, mostly in Paris, and no one seems to have made it his business to inquire into Landru's absence from military service.

In any case, it was found that early in 1915 he was engaged in a profitable and easy form of crime. He had in some way acquired a car and the knowledge how to get petrol for private use. His experience in garages and his appearance of running one or two would no doubt enable him to do this. The work he had done in the second-hand furniture trade had probably taught him that there was a class of women, middle-aged widows for the most part, who were accustomed to act on the advice of their husbands or relatives and were forced both to retrench and to contemplate a lonely and penurious old age. Such women were hard to do business with. They knew prices and their need was great. To buy from them did not mean easy money or large profits.

On the other hand, their firm front was easy to turn. The fear of poverty and loneliness would make them peculiarly accessible to the approaches of a man who promised them ease and protection. To such a man they would readily trust themselves and their poor belongings. And if he betrayed that trust then they were

peculiarly helpless. To publish to the world their losses would also reveal their shame and their folly.

Thus to prey on lonely widows and spinsters is not unknown. Many have practised the art, and it has to such criminals the advantage that they can also cheaply and safely gratify their lust. And thus it came about that in the four years of the war nearly three hundred Frenchwomen succumbed to the wiles of Landru.

It has been assumed that he was subject to some form of blood lust which impelled him to murder his victims. There seems to be no real evidence of that. A man who embarks on this kind of adventure must shake himself free from entanglement. He must also speedily possess himself of the goods which his real object is to obtain. It is therefore inevitable that a proportion of the women would be difficult to shake off and some must have shown no great disposition to hand over their property. The obvious means of overcoming their attachment or reluctance when trickery and evasion failed was to destroy them, and to do so is unfortunately only too easy. With one exception, Landru's murders can be attributed to his desire for his victim's fortunes. We must therefore postulate that he was callous and inhuman—an assumption which offers us no difficulty, seeing that his very mode of life was impossible for any other kind of man.

The one exception was the nineteen-year-old maidservant Andrée Babelay. She had nothing in the world, but her one adventure, the visit to Landru's fatal villa, ended her life. Even in her case one may assume that, like Bluebeard's wife, she had surprised his guilty secret and so had to die.

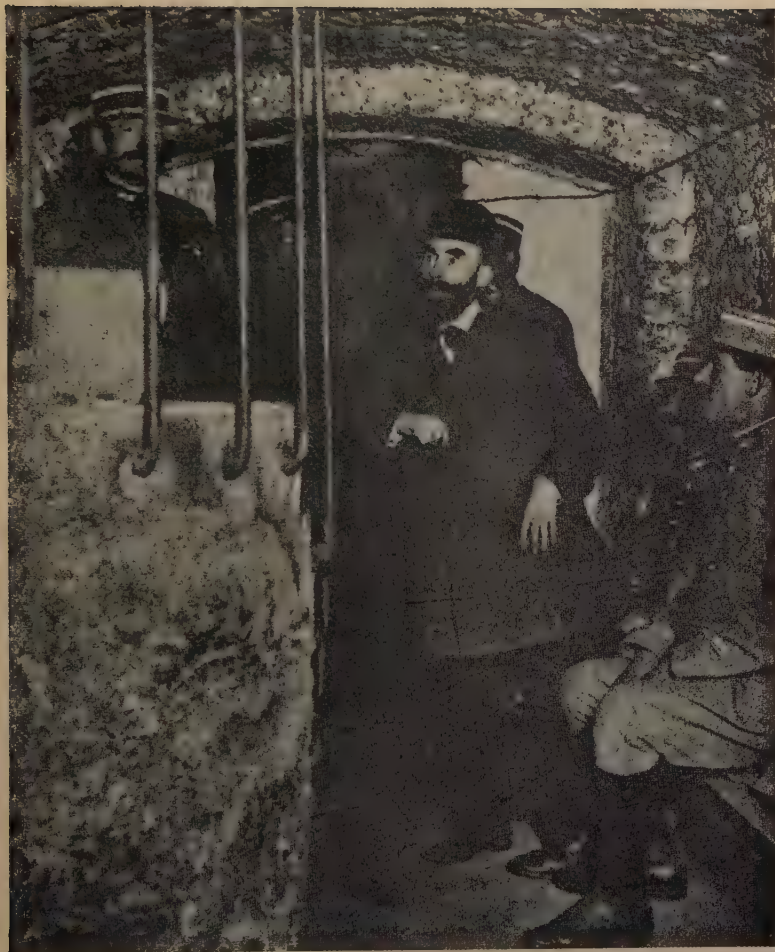
His arrest came about through the wit of a woman, who was seeking a sister who had met Landru and had not been heard of since she departed with him. It was the usual story. Mme. Buisson was a widow with a small boy. She read in a paper a matrimonial advertisement from a M. Fermiet. They met and eventually went away, leaving the child in the care of his aunt, Mlle. Lacoste. No more was heard of her. Two years after her departure the child died and Mlle. Lacoste urgently desired to break the news to her sister. She did not know where to seek.

Suddenly she remembered that Mme. Buisson had once whispered to her that she and her lover were going to stay at his house, Villa Ermitage, at Gambais, near the Forest of Rambouillet. It was a great secret. Perhaps that was where she was now. She at once wrote to the Maire, who replied that the tenant was a M. Dupont, and he added that the relatives of a Mme. Colomb had also inquired about her, saying that she had been at Villa Ermitage. The police were communicated with, but they could not find M. Dupont or M. Fremiet or M. Diard, for Landru used innumerable aliases. It is, however, strange that Landru, this short, bald, bearded, loquacious man, known to the police, who was moving about in Paris, though under different names and at different addresses, escaped their notice.

Mlle. Lacoste did not lose heart. On 12th April, 1919, her long search was rewarded. She had seen the man in her sister's presence, so she knew whom to look for. On this day in the Rue de Rivoli she saw him and followed. He went into a shop. She waited. He came out and she again followed, but lost him in the crowd. She did not hesitate to seize the one chance left. She went into the shop and found that M. Guillet, an engineer, living at 76, Rue de Rochechouart, had bought a white-and-gold dinner set, which was to be sent to him. He never received it, for Mlle. Lacoste at once hurried to the police. They sent to the address and there found M. and Mme. Guillet. In a short time the pair were revealed as Landru and his mistress, a sometime actress named Fernande Segret. They were arrested, but the woman was soon released. Landru was detained.

What was the charge? Obviously he was suspected of murder. But in order to charge a man with that crime, there must at least be some evidence in support. It was comparatively easy to unmask Landru as a swindler who had betrayed and robbed many women. Every day fresh frauds came to light. But no corpse and no evidence of one. All that the police knew was that three women had at various times been in his company and thereafter were seen no more.

Upon him was found a cheap little memorandum book bound



LANDRU

waiting in his cell at Versailles for the verdict of the jury

in shiny black, such as can be bought anywhere for a few pence. In it Landru had made many careful notes of his expenses. On one page was an entry:

"A. Cuchet. G. Cuchet. Bresil. Crozatier. Havre. Ct. Buisson. A. Colomb. Andrée Babelay. M. Louis Jaume. A. Pascal. M. Thr. Mercadier."

Now the police knew that Mme. Cuchet and her son were missing and so, too, were Mmes. Buisson and Colomb. Was this a list of victims? If so, who were the other seven?

The police set themselves to solve their problem. Gradually they established that each of the other seven was a woman who had met Landru under a project of marriage and then had been seen no more. But their utmost efforts did not discover a single dead body.

The stories of the seven were very similar. The earliest to be identified was the last victim, Marie Thérèse Marchadier. In January, 1918, she was thirty-eight. She had been known in many a garrison town, where she frequented the society of non-commissioned officers, as "La Belle Mythese." She had retired to a dignified obscurity in Paris and was living there when, towards the end of 1918, an advertisement that she had furniture to sell brought Landru to her. The acquaintance became closer, and on 9th January, 1919, she had arrived at Gambais. The villagers remembered her and her two griffons. They could not remember whether it was the 13th or the 14th of that month that they saw her last. Landru had possessed himself of her goods, but the police could not discover her. But they dug up the bones of the dogs in the garden at Gambais.

Starting from the word "Bresil," the police identified Mme. Laborde Line, a widow, who had been missing since 10th July, 1915. She had been negotiating marriage with a charming engineer from Brazil, but the consular and legal difficulties were so great that she decided to dispense with the ceremony. The pair left together. Afterwards the man came back alone and took away Madame's furniture. The neighbours identified him—it was Landru.

Mme. Cuchet and her son had disappeared at Vernouillet early in 1915. She was living with a M. Raymond Diard—again identified as Landru.

"A. Pascal" was Mme. Annette Pascal, a woman of thirty-three. She disappeared at Gambais in April, 1918. Mme. Guillaïn was a widow of fifty-one. She had last been seen at Vernouillet in August, 1915. "M. Louis Jaume" proved to be Louise Leopoldine Jaume, who had been lost since 1st September, 1917. There was a Mme. Heon who disappeared in 1915.

Lastly, there was Andrée Babelay, a young servant maid of nineteen. She had no means and consequently, in her case, unlike the others, Landru had nothing to obtain by her death. On 11th March, 1917, she obtained leave to visit her mother. Instead, she accompanied Landru to the villa at Gambais. How they met and by what arts he enticed her there we do not know. Why had she to die? Was it because, having had his way with her, he found that he could not shake her off? Or had she, as I say, like Bluebeard's wife, surprised his secret?

The police worked hard. They searched the houses at Gambais and Vernouillet again and again. They dug and redug the gardens. They sought for means whereby bodies could be destroyed. The villagers at Gambais had spoken of occasions when noxious smells of burning had come from the villa. The kitchen stove was inspected and became famous. The experts tried to consume a leg of mutton in it and only succeeded in suffocating themselves. But the search revealed many fragments of bones, and from them the experts sorted out pieces which they were prepared to swear were of human origin and had belonged to three individuals at least. Moreover, the cinders and ashes contained metal objects which obviously were such as are used to fasten women's garments.

All this took a long while, and for two-and-a-half years Landru remained in custody. At first he was sent to Nantes, but he was soon sent back to Paris, and his case was entrusted to M. Bonin, one of the ablest of the French examining magistrates. In France the system of interrogating an accused person is in force. It seems strange to Englishmen who have been brought up under the prin-

ciples established in 1848, but it would not have seemed so strange to our ancestors. The old criminal records show that accused persons were regularly interrogated both before and during their trial.

M. Bonin followed the accustomed plan. As the police unearthed new facts, so he put them to Landru and asked for his explanations. It was in the course of these proceedings that Landru became a favourite. Many a prisoner has taken up the line, perfectly legitimate, that he will say nothing. Few, however, are found with the strength of mind to maintain their reserve. But Landru did. For whole days his answers simply were, "I have nothing to say," and the magistrate was forced to remand him. What was worse was that when he did say anything, his answers, by their plausible impudence or comic inconsequence, excited public merriment. When asked about his relations with these women, he replied, "I am a gallant man and will say nothing." Again, "I cannot think of revealing the nature of my relations with Mme. Gullian without that lady's permission." When the magistrate turned his attention to other swindles, for Landru had not neglected the profitable occupation of defrauding demobilised soldiers of their gratuities, Landru justified taking a certain man's money and then dismissing him on the high moral ground that he thought the man was married and had discovered that the woman was only a mistress. From one who had dallied with 300 mistresses the answer is impudent enough to be extremely amusing. Again, one day Landru was confronted with a witness who gave damaging evidence as to his relations with one of the victims. The magistrate noticed that his prisoner looked perturbed and taxed him with it. Landru admitted that he was ashamed. By the indiscretion of the witness his wife would now learn of his infidelity. And that wife was actively claiming a divorce on this very ground, as Landru and everyone else well knew.

At last the inquiries were ended and the magistrate made up the records and committed the accused for trial. Thus, in November, 1921, Landru appeared at the Assizes at Versailles charged with eleven murders.

The Presiding Judge was M. Gilbert, acute but gentle, precise but polite. M. Godefroy, the Advocate-General, led for the prosecution. Me. Lagasse was briefed for a *partie civile*, the relatives of Annette Pascal. French procedure allows claims for damages to be put forward at a criminal trial, which accounts for his presence. His rôle during the evidence seemed to be to draw the fire of the redoubtable Me. Moro-Giafferi, who appeared as leading counsel for the defence. Me. Moro-Giafferi's name is well known in England. His methods are more vigorous and more emotional than those to which we in England are accustomed. But French procedure differs from ours. The long interrogatory of the prisoner, conducted by the Presiding Judge, necessarily tends to produce an impression that the accused must be guilty. In order to dispel that impression the defence must be vigorous. By collisions with the judge and opposing counsel, it is possible to gain the sympathy of the jury, and, having gained and kept that sympathy, it is often essential in the final speech to sweep them off their feet so that their final consideration of the verdict shall be under the influence of an irresistible appeal. Me. Moro-Giafferi is fiery and eloquent. He exerts himself to the last ounce of his bodily strength in his client's cause.

French procedure in the respect I have mentioned does seem to favour the prosecution, but in matters of evidence and argument that procedure is far more favourable to the accused than ours. Within certain wide limits, counsel may appeal to the passions and prejudices of the jury in a way which we find difficult to understand. I am not seeking to compare or appraise the merits of the two systems, but merely to emphasise the fact that they do differ. English juries have been known to go wrong and even English judges are human beings.

Landru commenced the trial in apparent good health and spirits, but as the long trial went on he visibly flagged. His tactics were the same as before. He would not answer, or, if he did, then he was irrelevant or impudent. He rarely made a statement of fact, and whenever he did it was a tactical mistake; the prosecution were able to refute it. In fact, it is not always wise for

a prisoner to leave the prosecution to prove their case. Where explanations are obviously needed, unless an unfavourable inference is to be drawn, the failure to afford these explanations—still more the air of trifling with the grave points made against the prisoner—will tend to confirm the inference. If the evidence for the prosecution is weak, then it may be the best thing to let it do its worst. But once a *prima facie* case is made out, an insistence on the duty of the prosecution to make out a complete case may amount to a refusal to give an account by way of exculpation which alone can avert an unfavourable verdict.

Landru pleased the large fashionable audience, but the jury were the persons to convince. Some of his replies were apt. In dealing with the memorandum book, he said sarcastically, "Perhaps the police would have preferred to find on page 1 an entry in these words: 'I, the undersigned, confess that I have murdered the ten women whose names are herein set out.'" His reply to the comment that they had all vanished was, "And are there no others who have also disappeared without anyone being accused of their death?" As to his relations with them, "The ladies whom you call my fiancées knew what they were about, seeing that they were all—[a pause]—of age." Often when pressed by a question which assumed his guilt, he burst out that he knew they wanted his head: the pity was that he had not more than one for them to take. But his replies convinced the onlookers that he was a clever, scheming man: his evasions; his quickness in seeing and evading a trap; his readiness, all proved that he was the kind of man who could deceive these women, and that they would be helpless in his hands.

When the interrogatory was ended, then came the witnesses—the relatives and friends of the women. They told the story of how a man whom they now knew to be Landru had met one of these women, how he had ingratiated himself with her, how they had departed, how Landru had obtained her property and then the curtain fell; no more was heard of her. If she was alive she must have come to see them or at least have written. And as to each of them Landru was asked, "What became of her?"

and he replied, "I have nothing to say." Nothing! When he was the last to see her and could have said when and how they parted; have given at least some indication where they might search if she were still alive!

When Mme. Jaume was in question he was reminded that in 1918 he had told her friends that she had sailed for America—a fact easy to verify, if true, as it was in war time. The Court was astounded to hear Landru declare that, given twenty-four hours, he would prove that one of the women was alive and well after the date of her alleged murder. The Court adjourned amid excitement. If this were proved, the basic theory of the prosecution would be shattered. But he did not prove it. He had made a serious mistake.

Towards the end of this string of witnesses came Fernande Segret. Her evidence was not of much importance but it was a delicious moment for the onlookers who stared at her, regardless of her emotion. She was the only creature who cared for Landru and stood by him in his need.

Finally came the experts who brought with them their grisly relics culled from the Villa Ermitage. They proved that some of the bones were human, and that they belonged to several persons. They also dealt with the remnants of dress fastenings found among the ashes. If they were right, whence came these human remains?

At last the latest expert finished his demonstration. Now it was the turn of counsel.

Maitre Lagasse led off. His somewhat tearful exposition concerned Mme. Pascal. His quiet and simple speech visibly impressed the jury, but he was limited to the one case.

Me. Godefroy, on the other hand, summed up the whole of the charges. His lucid unemotional speech arranged in damning sequence the facts proved, and, as he went on, by degrees he built up a case which it seemed impossible to rebut. When he had finished, then came the moment for which everybody was waiting.

Me. Moro-Giaffieri was the last to put the case for the defence.

As if affected by the tone of the previous speeches, he began, contrary to expectation, slowly and solemnly with marked politeness. But soon emotion gained on the orator and he was in a full flight of passionate appeal. It was a noteworthy speech in which all of the arts of French oratory were displayed. Landru never moved. Nor did the jury. What did they think?

At last they retired and judges and counsel also left the Court. At once the scene became one of animation. Friends greeted one another. Conversation became active. Laughter filled the air. Some took refreshment from the bags they had brought. In this way two hours passed, when the whisper ran round that the jury had agreed. The judges returned and the jury filed into Court. The usual tedious formalities were gone through, and then the foreman rose, holding the written verdict in his shaking hand. Landru was found guilty on all the charges without extenuating circumstances. That meant death on the guillotine.

Landru was brought in. The audience rose, jostling and protesting to one another, eager to stare at a man about to hear his doom. He was calm and dignified. All he did was to turn and thank his counsel. "If I could have been saved," he said, "you would have done it." The judges retired, and during their absence the crowd jostled, talking and laughing, so much that Me. Godefroy was moved to passionate protest. "Do you not realise," he shouted, "that this man is going to his death!"

Landru remained erect and dignified. He permitted himself but one remark. To a bystander he said, "There is no battle without a death." Once again he protested his innocence when the judges returned to pronounce his sentence. Then he went back to prison. It was the 30th November, 1921.

For two months he languished in prison, but steadfastly declined to confess. At last the time for his execution drew near. His lawyers came to see him and bade him farewell. He thanked them but again protested his innocence. A priest came and asked whether he would hear a Mass. He refused. He would not, he said, keep all these gentlemen waiting. He was offered a stimulant but declined. To the official who ask him whether he had any

statement to make he replied that the question at such a time was an insult. And so in the early morning of the 25th February, 1922, Landru was delivered into the hands of the executioner. Within a few minutes his head fell into the fatal basket. He had followed his victims.

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